

---

# 2016

---

## KENTUCKY LEAGUE OF CITIES

# LEGISLATIVE UPDATE

---

*Bills Enacted by the 2016 Kentucky General Assembly of Interest to Kentucky Cities*



[klc.org](http://klc.org)

**NOTE:** The effective date of all legislation enacted by the 2016 Regular Session of the General Assembly is July 15, 2016, except for measures containing emergency or delayed effective date provisions. (OAG 16-002)

If a bill reported in this update becomes effective on a date other than July 15, 2016, it is noted in the summary of the bill.

The complete text of all bills is available for review on the Legislative Research Commission website at [www.lrc.ky.gov](http://www.lrc.ky.gov).



**2016 KLC LEGISLATIVE UPDATE**

**Alcoholic Beverages** ..... **1**

    SB 11     Alcoholic Beverages

**Code Enforcement** ..... **3**

    HB 422    Local Code Enforcement

    SB 122    Recording of Commissioner’s Deed

    SB 230    Blighted and Deteriorated Properties

**Controlled Substances** ..... **9**

    HB 4     Controlled Substances

**Economic Development** ..... **10**

    HB 237    Local Tax Exemptions for Data Centers

    HB 309    Public-Private Partnerships

**Emergency Services** ..... **16**

    HB 384    Local Health and Fitness Incentive Programs

    HB 585    911 Emergency Services

    SB 43     Survivors of Emergency Medical Services Providers

**Fire Protection Services** ..... **20**

    HB 343    Fire Protection Territories

    SB 195    Firefighter Eligibility for State Death Benefit

    SB 249    Fire Department Reporting Standards

**Law Enforcement** ..... **24**

    HB 124    Confiscated Firearms

    HB 149    Work Periods within a Consolidated Local Government

    HB 250    Misdemeanor Arrests

    HB 314    Firearms Carried by Current and Retired Peace Officers

    SB 63     Sexual Assault Evidence Collection

# TABLE OF CONTENTS

<b>Local Government Administration</b> .....	<b>28</b>
HB 52    Coal Severance Tax Refunds	
HB 189   Interlocal Agreements	
HB 497   Preemption of Seed Regulation	
HCR 13   Municipal Bankruptcy Study	
SB 46    Local Government Pension Plans	
SB 167   City Government Operations	
SB 168   Municipal Audits	
<b>Public Safety Training</b> .....	<b>33</b>
HB 52    Reimbursement of State Police Training Costs	
HB 473   Public Safety Personnel Training	
<b>Retirement</b> .....	<b>35</b>
HB 153   Volunteer Service and Public Employee Retirement	
HB 238   Public Pension Plan Reporting	
HB 271   Public Pension Oversight Board	
HB 281   Retirement Benefits for Local Elected Officials	
SB 206   Reemployment of Retired Police Officers	
<b>Revenue and Spending</b> .....	<b>40</b>
HB 55    Transient Room Tax in an Urban County Government	
HB 303   Executive Branch Biennial Budget	
<b>Solid Waste Collection</b> .....	<b>41</b>
HB 402   Taxation of Property Used as a Landfill	
SB 84    Vehicles Operated by Collection Service	
<b>Utilities</b> .....	<b>42</b>
HB 261   Water Utilities	
HB 529   Kentucky Water Resources Board	
SB 90    Siting of Cellular Antenna Towers	
SB 141   Board Membership for Municipal Utilities	
<b>Workers' Compensation</b> .....	<b>45</b>
HCR 185  Kentucky Workers' Compensation Task Force	

**2016 KLC LEGISLATIVE UPDATE**

**HOUSE BILLS**

HB 4 Controlled Substances ..... 9

HB 52 Coal Severance Tax Refunds ..... 28

HB 52 Reimbursement of State Police Training Costs ..... 33

HB 55 Transit Room Tax in an Urban County Government ..... 40

HB 124 Confiscated Firearms ..... 24

HB 149 Work Periods within a Consolidated Local Government ..... 24

HB 153 Volunteer Service and Public Employee Retirement ..... 35

HB 189 Interlocal Agreements ..... 28

HB 237 Local Tax Exemptions for Data Centers ..... 10

HB 238 Public Pension Plan Reporting ..... 36

HB 250 Misdemeanor Arrests ..... 24

HB 261 Water Utilities ..... 42

HB 271 Public Pension Oversight Board ..... 37

HB 281 Retirement Benefits for Local Elected Officials ..... 38

HB 303 Executive Branch Biennial Budget ..... 40

HB 309 Public-Private Partnerships ..... 10

HB 314 Firearms Carried by Current and Retired Peace Officers ..... 25

HB 343 Fire Protection Territories ..... 20

HB 384 Local Health and Fitness Incentive Programs ..... 16

HB 402 Taxation of Property Used as a Landfill ..... 41

# TABLE OF CONTENTS

HB 422 Local Code Enforcement ..... 3

HB 473 Public Safety Personnel Training ..... 33

HB 497 Preemption of Seed Regulation ..... 29

HB 529 Kentucky Water Resources Board ..... 43

HB 585 911 Emergency Services ..... 16

HCR 13 Municipal Bankruptcy Study ..... 29

HCR 185 Kentucky Workers’ Compensation Task Force ..... 45

**SENATE BILLS**

SB 11 Alcoholic Beverages ..... 1

SB 43 Survivors of Emergency Services Providers ..... 19

SB 46 Local Government Pension Plans ..... 30

SB 63 Sexual Assault Evidence Collection ..... 25

SB 84 Vehicles Operated by Collection Service ..... 41

SB 90 Siting of Cellular Antenna Towers ..... 44

SB 122 Recording of Commissioner’s Deed ..... 7

SB 141 Board Membership for Municipal Utilities ..... 44

SB 167 City Government Operations ..... 31

SB 168 Municipal Audits ..... 32

SB 195 Firefighter Eligibility for State Death Benefit ..... 21

SB 206 Reemployment of Retired Police Officers ..... 38

SB 230 Blighted and Deteriorated Properties ..... 7

SB 249 Fire Department Reporting Standards ..... 22

# ALCOHOLIC BEVERAGES



## SB 11 ALCOHOLIC BEVERAGES

Sponsor: Senator John Schickel (R-Union)

SB 11 amends several statutes relating to alcoholic beverages. The amended statutes include the following KLC initiatives.

- ◆ **Sale of Alcoholic Beverages by the Drink in Restaurants Seating 50 Persons or More**

A new section of KRS Chapter 243 is created to permit expansion of the sale of alcoholic beverages by the drink in any city or county that conducted an election authorizing the sale of alcoholic beverages by the drink in restaurants and dining facilities seating 100 persons or more prior to January 1, 2016, under certain conditions:

If the legislative body of a city or county that conducted an election authorizing the sale of alcoholic beverages by the drink in restaurants and dining facilities seating 100 persons or more prior to January 1, 2016, determines that an economic hardship exists within the city or county and expanded sales of alcoholic beverages by the drink could aid in economic growth, the city or county may, after conducting a hearing noticed to the public in accordance with KRS Chapter 424, adopt an ordinance authorizing the sale of alcoholic beverages by the drink in restaurants and dining facilities seating 50 persons or more.

- ◆ **Elimination of Population Requirement for Local Option Election in Cities**

KRS 242.125 is amended by SB 11 to eliminate the population requirement for holding a local option election in cities. A city of any size may hold a local option election to determine the wet, moist or dry status of the city separate from the county status.

- ◆ **Elimination of Population Requirement for Sunday, Election Day and After-Hours Sales in Cities**

KRS 244.290 and 244.480 are amended to allow a city of any size to permit premises licensed to sell distilled spirits, wine or malt beverages to remain open during hours polls are open on any primary, regular, local option or special election day if the legislative body of the city adopts an ordinance after July 25, 2013, to permit the sale of distilled spirits, wine or malt beverages within its jurisdictional boundaries on any election day during the hours the polls are open.

KRS 244.290 is amended to allow the legislative body of a city of any size to establish the hours and times, including Sunday, in which distilled spirits and wine may be sold by the drink or by the package within its jurisdictional boundaries.

KRS 244.480 is amended to allow the legislative body of a city of any size to establish the hours and times, including Sunday, in which malt beverages may be sold within its jurisdictional boundaries.

- ◆ **Other Provisions of SB 11**

A new section of KRS Chapter 242 is created to permit a local option election within three years of the effective date of SB 11 in a city or county precinct in which a distillery is located

## ALCOHOLIC BEVERAGES (CONT.)

to promote economic development and tourism. The provision expires three years after the effective date of SB 11.

KRS 243.090 is amended to require most alcohol licenses issued by a city or county administrator to expire on the same date as the corresponding state license. All licenses issued after January 1, 2017, by a city or county administrator must be renewable on the date established by the Department of Alcoholic Beverage Control for the expiration of state licenses issued for premises located in the city or county. During the first year, if the new date for renewal does not occur on the date established by the Department for expiration of the state license, the city or county administrator shall prorate the cost of the renewal license or provide a prorated provisional license.

A new section of KRS Chapter 244 is created to prohibit the possession, sale or use of any powdered or crystalline alcoholic beverage product.



# CODE ENFORCEMENT



## HB 422 LOCAL CODE ENFORCEMENT

Sponsor: Representative Michael Meredith (R-Brownsville)

HB 422 consolidates all current local code enforcement provisions into one KRS chapter and statutory scheme. Consolidation creates lien priority for all city code enforcement liens except tax liens. The bill additionally permits the use of a hearing officer to issue final orders and creates a mechanism allowing for notification of lienholders when final orders are issued.

### Background

Local code enforcement provisions are currently found in KRS 82.700 to 82.725 (abatement of nuisances), KRS 381.770 (abatement of nuisance) and KRS 65.8801 to 65.8839 (code enforcement boards). HB 422 consolidates all of the provisions into KRS 65.8801 to 65.8839 and repeals KRS 82.700 to 82.725 and KRS 381.770. By consolidating the statutes, the lien priority provision currently in KRS 65.8801 to 65.8839 is extended to all code enforcement proceedings, and the notice and right to remedy provisions currently available to lien holders in KRS 381.770 are required in all code enforcement proceedings. Many of the provisions in HB 422 are direct transfers from KRS 82.700 to 82.725 and KRS 381.770 to KRS Chapter 65.

### Authority of Code Enforcement Board

KRS 65.8808 is amended by HB 422 to clarify the authority of a code enforcement board to enforce an ordinance classified as a civil offense, including zoning and nuisance ordinances. Ordinances must either set forth a specific fine or fines that may be imposed for each violation of the ordinance or establish a maximum fine for contested citations and a minimum fine for uncontested citations. Cities may choose either option. KRS 65.8808 presently requires an ordinance to include both a maximum civil fine to be imposed for each violation of the ordinance and a specific civil fine of less than the maximum to be imposed for uncontested violations.

### Hearing Officers

A new section of KRS 65.8801 to 65.8839 is created to permit a code enforcement board to assign a hearing officer to conduct hearings. The section codifies in KRS Chapter 65 the use of hearing officers previously permitted under KRS Chapter 82. Any member of the code enforcement board, including the chair, may be assigned as a hearing officer. An individual that is not a member of the code enforcement board may be assigned by the board as a hearing officer as long as the individual does not hold any elected or appointed position, office or position of employment with a unit of local government that created the code enforcement board.

Any person assigned to be a hearing officer by a code enforcement board must have experience or received training in the code enforcement process and basic procedural due process as specified in the ordinance creating the code enforcement board. The experience or training must include, at a minimum, acquired knowledge regarding a party's fundamental due process right to: (1) be accompanied and advised by counsel at the hearing; (2) present evidence and witnesses on his or her behalf at the hearing; (3) examine the evidence opposing the party; and (4) confront and cross-examine the witnesses opposing the party.

## CODE ENFORCEMENT (CONT.)

An assigned hearing officer may administer oaths to witnesses prior to their testimony and subpoena alleged violators, witnesses and evidence to the hearing to which the officer is assigned.

At the conclusion of a hearing, the hearing officer must make written findings of fact, conclusions of law and a recommended order for consideration by the code enforcement board, which must be forwarded to the board and the alleged violator within 24 hours of entry. In lieu of entry of a final order by a code enforcement board, a local government may instead require in the ordinance establishing the code enforcement board that the hearing officer make written findings of facts, draw conclusions of law and enter final orders consistent with the authority granted to the code enforcement board.

A local government must designate in the ordinance governing operation of the code enforcement board the method of appeal of a final order issued by a hearing officer:

1. A final order issued by a hearing officer may be appealed by the alleged violator to the code enforcement board. If the local government provides for appeal to the code enforcement board, the appeal must be filed in writing by the alleged violator within seven days of receipt of the final order. The failure to file an appeal within seven days renders the order entered by the hearing officer final and nonappealable for all purposes, as previously provided under KRS Chapter 82.
2. In the alternative, a local government may designate in the ordinance governing operation of the code enforcement board that a final order issued by a hearing officer may be appealed by the alleged violator directly to District Court.

### Notice by First-Class Mail

KRS 66.8828 is amended to permit notice of a hearing requested by the person to whom a citation is issued and a copy of a final order issued by a code enforcement board following a hearing, if the person is not present at the time the final order is issued, to be delivered to the person named in the citation by regular first-class mail as was permitted under KRS Chapter 82.

### Liens

KRS 65.8835 is amended to clarify that a local government has a lien on property owned by a person found by a nonappealable final order or final court judgment to have committed a violation to include all civil fines assessed for the violation and for all charges and fees incurred by the local government in relation to enforcement of an ordinance, including abatement costs. An affidavit of the code enforcement officer shall constitute *prima facie* evidence of the amount of the lien and the regularity of the proceedings. The lien: (1) shall be recorded in the office of the county clerk; (2) take precedence over all other liens, except state, county, school board and city taxes; and (3) may be enforced by judicial proceedings, including an action to foreclose. The lien shall continue for 10 years following the date of the nonappealable final order or final judgment of the court, rather than be subject to the standard five-year statute of limitations.

## CODE ENFORCEMENT (CONT.)

### Notification of Lienholders

A new section of KRS 65.8801 to 65.8839 is created to require a local government adopting the provisions of KRS 65.8801 to 65.8839 to implement a system for notification to lienholders and comply with procedures to permit remedial action by lienholders in order to obtain and maintain lien priority over previously filed liens.

A local government is required by HB 422 to create a notification system that provides lienholders and others that elect to do so with electronic notification of all final orders entered pursuant to KRS 65.8801 to 65.8839 that meets the following minimum requirements:

1. An individual or entity may register with the local government to receive information on each final order by providing a name, mailing address, phone number and an electronic mailing address to the local government, which must be accepted by the local government in any form submitted by a registrant. It shall be the responsibility of the registrant to maintain and update its contact information with the local government, except that a local government must inform a registrant of any evidence the local government receives that the electronic mailing address is invalid or not functional in order to provide the registrant an opportunity to submit an updated electronic mailing address.
2. No less than once a month but no more frequently than once per week, the local government must send electronic mail notification of all final orders that were issued pursuant to the provisions of KRS 65.8801 to 65.8839 since the last date of notification to each registrant. The notification must include or provide an electronic link to a document or database that includes:
  - a. The name of the person charged with a violation;
  - b. The physical address of the premises where the violation occurred;
  - c. The last known mailing address for the owner of the premises where the violation occurred;
  - d. A specific description of the citation leading to the final order, which may be satisfied by including a copy of the full citation;
  - e. The findings of the final order, including the penalty or penalties imposed by the final order, which may be satisfied by providing a copy of the full final order; and
  - f. The status of the final order in regards to its ability to be appealed, except that the local government must provide an update to registrants if an appeal is filed.

The local government must post each electronic mail notification or provide a summary of the information regarding each final order in a conspicuous place on its public website within 10 days of issuance of a final order. A summary posted by a local government must be calculated to reasonably allow identification of the specific properties that may be impacted by the lien. Records created for the notification system must be maintained by the local government for a period of 10 years.

## CODE ENFORCEMENT (CONT.)

A lien holder of record may, within 45 days of notification, correct the violation if it has not already been abated or elect to pay all civil fines assessed for the violation and all charges and fees incurred by the local government in relation to enforcement of the ordinance, including abatement costs.

A local government's lien priority will not extend to previously recorded liens if:

1. The local government fails to comply with notification requirements; or
2. A prior lienholder corrected the violation or paid all civil fines assessed for the violation and all charges and fees incurred by the local government in relation to enforcement of the ordinance, including abatement costs, within 45 days of notification.

A local government may record a lien before the 45-day period expires. If the lien is fully satisfied, the local government must release the recorded lien within 15 days of satisfaction.

A local government may delegate responsibility for compliance with notification requirements to the code enforcement board or its administrative staff as specified in the ordinance establishing and governing the operation of the code enforcement board.

The failure of a local government to comply with notification requirements or the failure of a lien to take precedence over previously filed liens shall not limit or restrict any other remedies that a local government may have against the property or the violator.

### **KRS 381.770 Recodified**

A new section of KRS Chapter 65 is created to recodify KRS 381.770, abatement of nuisances, into KRS Chapter 65 so that local governments can continue to use it with no requirement to comply with other provisions of HB 422. Among other provisions, the recodified section provides that junked, wrecked or inoperative automobiles, vehicles, machines and scrap materials maintained on the business premises of a used automobile dealer, motor vehicle auction dealer or licensed automotive recycling dealer do not violate state law.

### **Vacant Property Review Commission**

KRS 99.710 is amended to permit the duties of a vacant property review commission under KRS 99.705 to 99.730 to be assigned to a code enforcement board established pursuant to KRS 65.8801 to 65.8839.

### **Deed to Real Property**

KRS 382.135 is amended to require the full name of the grantor and grantee to be included on a deed to real property.

### **Repealers**

KRS 82.700 to 82.82.725 and KRS 381.770 are repealed effective January 1, 2017. Repeal does not affect the status, priority or enforcement of any lien existing pursuant to KRS 82.725 or KRS 381.770 prior to January 1, 2017.

## CODE ENFORCEMENT (CONT.)



### **SB 122 RECORDING OF COMMISSIONER'S DEED**

Sponsor: Senator Tom Buford (R-Nicholasville)

SB 122 amends KRS 382.110 to require a deed prepared by a master commissioner of a Circuit Court to be filed by the grantee within five business days of receipt of the deed from the master commissioner appointed by the court to convey the property.



### **SB 230 BLIGHTED AND DETERIORATED PROPERTIES**

Sponsor: Senator Morgan McGarvey (D-Louisville)

SB 230 amends current vacant property review commission and eminent domain statutes to promote redevelopment of blighted and deteriorated properties.

#### **Vacant Property Review Commissions**

KRS 99.710 is amended by SB 230 to permit the legislative body of any local government to establish a vacant property review commission to review and certify vacant properties as blighted or deteriorated. Currently only cities and consolidated local governments are authorized to establish a vacant property review commission. KRS 99.710 is additionally amended to allow the duties that could be fulfilled by a vacant property review commission to instead be assigned to an "alternative government entity" defined as a code enforcement board, land bank authority, urban renewal and community development agency, or local development authority established by the legislative body of a local government with a purpose compatible with the purposes expressed in KRS 99.700 to 99.730.

#### **Tax Delinquency Diversion Program in a Consolidated Local Government**

A new section of KRS 99.700 to 99.730 is created to permit the legislative body of a consolidated local government to establish a tax delinquency diversion program for blighted property. The ordinance establishing the program must designate the vacant property review commission or an alternative government entity as the body responsible for identifying and certifying priority project areas and individual parcels of property for inclusion in the tax delinquency diversion program. "Priority project area" means a specific group of properties identified by Census block located in an area where: (1) there are a significant number of blighted properties; (2) existing conditions are favorable for development; (3) existing resources needed for urban redevelopment are present; and (4) existing characteristics of the area can be promoted as part of a campaign to retain existing residents and attract new residents to the area. "Individual parcel" means a parcel of property designated as blighted by the vacant property review commission or alternative government entity that is located in an area that exhibits the same characteristics as a priority project area but is not located in a priority project area.

The vacant property review commission or alternative government entity must submit recommended priority project areas and qualifying individual parcels of property to the governing

## CODE ENFORCEMENT (CONT.)

body of the consolidated local government for consideration for inclusion in the tax delinquency diversion program. Certificates of delinquency related to property approved for inclusion in the program cannot be purchased by any person for a period of up to five years following the year in which the property is placed in the tax delinquency diversion program. The commission or alternative government entity must provide to the county attorney a list of all properties included in the tax delinquency diversion program for placement by the county attorney on a protected list.

### **Valuation of Blighted or Deteriorated Property**

KRS 416.580 is amended by SB 230 to establish the method for determining the market value of blighted or deteriorated property if an eminent domain proceeding is instituted pursuant to KRS 99.700 to 99.730. Commissioners appointed by the Circuit Court to determine the market value of the property must consider: (1) the estimated cost of repairs necessary to bring the property up to the minimum standards of the local housing or nuisance code as determined by an independent appraiser, general building or residential contractor, or building inspector; or (2) the cost of demolition of the property, if the commissioners determine that demolition would be the most cost-effective manner of addressing blighted or deteriorated structures on the property.

# CONTROLLED SUBSTANCES



## HB 4 CONTROLLED SUBSTANCES

Sponsor: Representative Rocky Adkins (D-Sandy Hook)

### Hydrocodone

HB 4 amends KRS 218A.070 to reclassify hydrocodone from a Schedule III controlled substance to a Schedule II controlled substance. Sections of KRS Chapters 314 and 320 are amended to preserve the authority of advanced practice registered nurses and optometrists to prescribe hydrocodone-based products within specified limits.

### Synthetic Drugs

HB 4 amends KRS 218A.1430 to increase the penalty for trafficking in synthetic drugs from a Class A misdemeanor to a Class D felony for the first offense and a Class C felony for each subsequent offense. The penalty for possession of synthetic drugs is increased from a Class B misdemeanor to a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.

An emergency is declared. HB 4 became law on April 27, 2016, when signed by the Governor.

## ECONOMIC DEVELOPMENT



### **HB 237** **LOCAL TAX EXEMPTIONS FOR DATA CENTERS**

Sponsor: Representative Jim DeCesare (R-Bowling Green)

HB 237 amends KRS 91.260 and 92.300 to define certain classes of data centers as “manufacturing establishments” under Section 170 of the Kentucky Constitution, which permits cities of all classes to, by ordinance, exempt manufacturing establishments from city taxation for a period not to exceed five years as an inducement to their location within the city.

“Data center” means a structure or portion of a structure that is predominantly used to house and continuously operate computer servers and associated telecommunications equipment for electronic data processing, storage or related activities. A qualified data center must have an overall tier rating of three or four on the assessment date of a given taxable year pursuant to a standard for data centers established by the Telecommunications Industry Association published in April 2005.

The provisions of HB 237 apply only to new manufacturing establishments that locate in an applicable city on or after July 15, 2016.



### **HB 309** **PUBLIC-PRIVATE PARTNERSHIPS**

Sponsor: Representative Leslie Combs (D-Pikeville)

HB 309 provides a framework for use of public-private partnerships as an alternative method for construction or financing of capital projects or procurement of services by state and local governments pursuant to a written public-private partnership agreement between at least one private partner and the state or local government. The framework for each is similar.

A new section of KRS Chapter 65 is created to specifically authorize the use of a public-private partnership (P3) for construction or financing of capital projects or procurement of services pursuant to a written agreement entered into as provided in HB 309 between at least one private partner and a local government. A contract for a P3 project must be awarded by competitive negotiation on the basis of best value and take effect only if executed by the legislative body of the local government. A local government utilizing a P3 remains responsible for oversight of any function that is delegated to or otherwise performed by a private partner.

#### **Public-Private Partnership Agreement**

A public-private partnership agreement must:

1. Include a detailed description of all duties and requirements of the private partner;
2. Require delivery by the private partner of performance and payment bonds on the design and construction portion of the agreement as required under KRS 45A.435 and maintenance bonds, warranties, guarantees and letters of credit in connection with the



## ECONOMIC DEVELOPMENT (CONT.)

- private partner's other activities under the agreement, in the forms and amounts satisfactory to the local government and in amounts necessary to provide adequate protection to the local government;
3. Require review and approval of plans and specifications for the project by the local government;
  4. Require inspection of the project by the local government to ensure actions of the private partner are acceptable to the local government in accordance with the agreement;
  5. Require maintenance by the private partner of public liability insurance or self-insurance in a form and amount satisfactory to the local government and reasonably sufficient to insure coverage of tort liability to the public and employees and the continued operation of the project;
  6. Require reimbursement to be paid to the local government for services provided by the local government;
  7. Prohibit property owned by a local government to be sold, conveyed or disposed of in any way at any time;
  8. Prohibit transfer of leases issued by a local government to any party without the specific and express written consent of the legislative body of the local government;
  9. Require filing of appropriate financial statements by the private partner on a periodic basis;
  10. Provide policies and procedures governing the rights and responsibilities of the local government and the private partner in the event the P3 agreement is terminated or there is a material default by the private partner, including conditions governing assumption of the duties and responsibilities of the private partner by the local government and the transfer or purchase of property or other interests of the private partner by the local government;
  11. Establish fees or payments as may be required by agreement of the private partner and the local government;
  12. Require recognition of the importance of economic development opportunities presented by the qualifying project; and
  13. Include any other information necessary to properly address the life cycle of the agreement, including the disposition of assets if or when the P3 agreement is terminated or otherwise concludes.

In evaluating proposals, preference must be given to a plan that includes the involvement of small businesses as subcontractors, to the extent that small businesses can provide services in a competitive manner, unless any preference interferes with the qualification for federal or other funds.

## **ECONOMIC DEVELOPMENT (CONT.)**

### **Administrative Regulations**

The secretary of the Finance and Administration Cabinet is required by HB 309 to promulgate administrative regulations on or before December 31, 2016, establishing a procurement process and criteria to be used by a local government employing a P3 for a particular project. During development of the regulations, the secretary must consult with design-builders, construction managers, contractors, design professionals (including engineers and architects) and other appropriate professionals.

The Kentucky Local Government Public-Private Partnership Board is required to approve the proposed regulations prior to submission to the regulatory process required by KRS Chapter 13A. If the secretary fails to timely promulgate administrative regulations, local governments may act in the absence of administrative regulations in accordance with the provisions of HB 309.

### **Request for Proposals**

A request for proposals for a local government project utilizing a public-private partnership must include at a minimum:

1. The parameters of the proposed agreement;
2. The duties and responsibilities to be performed by the private partner or partners;
3. The duties and responsibilities to be performed by the local government and any other partners to the agreement;
4. The methods of oversight to be employed by the local government;
5. The evaluation factors and relative weight of each to be used by the local government in the scoring of awards; and
6. Other information required by a local government to evaluate the proposals submitted by respondents and the overall proposed public-private partnership.

A private entity desiring to be a private partner must demonstrate to the satisfaction of the local government that it is capable of performing any duty, responsibility or function it may be authorized or directed to perform as part of the P3 agreement.

When a request for proposals for a project utilizing a P3 is issued, a copy of the request must be provided to the Finance and Administration Cabinet and Department for Local Government. A solicitation may be canceled or all proposals rejected by a local government if it is determined in writing that the action is taken in the best interest of the local government and approved by the legislative body.

### **Local Government Public-Private Partnership Board**

There is established within the Finance and Administration Cabinet the Kentucky Local Government Public-Private Partnership Board composed of 11 members as follows:

1. The Secretary of the Finance and Administration Cabinet;

## ECONOMIC DEVELOPMENT (CONT.)

2. Two persons appointed by the Kentucky League of Cities with experience in municipal financial operations;
3. Two persons appointed by the Kentucky Association of Counties with experience in county financial operations, one recommended by the Kentucky County Judge/Executive Association and one by the Kentucky County Magistrates and Commissioners Association;
4. The commissioner of the Department for Local Government;
5. The executive director of the Office of Financial Management within the Finance and Administration Cabinet;
6. The Auditor of Public Accounts;
7. One citizen member appointed by the Governor with experience in local government debt and financial operations; and
8. Two members of the General Assembly, one appointed by the President of the Senate and one appointed by the Speaker of the House, serving in a nonvoting capacity.

Members on the Board shall begin their terms on August 1, 2016, and serve for a term of four years. The secretary of the Finance and Administration Cabinet shall serve as chair of the Board and be responsible for providing staff and maintaining records of the Board's actions and proceedings. A vice chair shall be elected from among the membership of the Board. The Board is required to meet at least once per year and as needed for the timely consideration of proposed projects.

### **Evaluation of Proposed Public-Private Partnership Agreements**

A local government giving initial approval to a P3 agreement having a total contractual value that equals or exceeds 30 percent of the general fund revenues received by the local government in the immediately preceding fiscal year is required by HB 309 to submit the agreement to the Finance and Administration Cabinet for evaluation of the following:

1. Whether the agreement was properly executed and includes the required provisions;
2. Whether the project is economically and financially viable within the scope of available or proposed financing arrangements and expected revenues; and
3. Whether the agreement adheres to the required procurement process.

The local government must submit any information required by the Cabinet relating to the agreement and procurement process to enable the Cabinet to conduct the evaluation.

Public-private partnership agreements having a total contractual value that is less than 30 percent of the general fund revenues received by the local government in the immediately preceding fiscal year are not required to be submitted to the Cabinet.

## ECONOMIC DEVELOPMENT (CONT.)

The Cabinet must acknowledge receipt of the agreement within 30 days and forward the results of its evaluation to each member of the Kentucky Local Government Public-Private Partnership Board within 90 days. The secretary is authorized to contract with a consultant to assist the Cabinet and the Board with the evaluation process. The secretary may, through administrative regulation, impose a reasonable fee on the private partner to defray the cost of the evaluation, including any expenses or fees incurred in contracting with a consultant.

The Local Government Public-Private Partnership Board is required to meet within 60 days following receipt of the evaluation to consider and approve or disapprove the proposed agreement. If the Board disapproves the proposed agreement, it must provide specific reasons for disapproval. A disapproved agreement may be modified by the local government and resubmitted for consideration.

If the Board approves the proposed agreement, the Cabinet must return the agreement to the local government legislative body for final execution. A copy of the executed agreement must be transmitted by the local government to the Department for Local Government.

Multiple local governments acting pursuant to an interlocal agreement may jointly enter into a public-private partnership. Public-private partnership agreements involving multiple local governments must be submitted to the Cabinet for evaluation only if the total contractual value equals or exceeds 30 percent of the combined general fund revenues received in the immediately preceding fiscal year by all local governments participating in the agreement.

No public-private partnership agreement issued by a local government having a total contractual value that equals or exceeds 30 percent of the general fund revenues received by the local government in the immediately preceding fiscal year can take effect unless and until it is approved by the Kentucky Local Government Public-Private Partnership Board following evaluation by the Finance and Administration Cabinet.

The Auditor of Public Accounts may periodically review public-private partnership agreements executed by a local government and actions taken pursuant to the agreement by private partners and local governments to evaluate compliance with the agreement.

### **Unsolicited Proposals**

A person or business may submit an unsolicited proposal to a local government. If a local government elects to consider further action on an unsolicited proposal, it must provide notice of the proposal pursuant to KRS Chapter 424 or electronically on its website within 30 days of receipt. The notice must include specific information regarding the proposed nature, timing and scope of the unsolicited proposal and provide 90 days for submission of competing proposals.

At the end of the 90-day period, the local government may consider the unsolicited proposal and any competing proposals received. If the local government determines it is in the best interest of the local government to implement some or all of the concepts contained within the unsolicited proposal or competing proposals, it may begin a competitive procurement process as provided in HB 309.

## **ECONOMIC DEVELOPMENT (CONT.)**

An unsolicited proposal shall be deemed rejected if no written response is received from the local government within 60 days following the end of the notice period.

### **Kentucky Public Transportation Infrastructure Authority Projects**

KRS 175B.020 and 175B.030 are amended by HB 309 to require a state authority to consult with officials representing the units of local government in which a proposed project will be located to obtain advice and input on the local impact of the proposed project, including information regarding land use planning, transportation planning, economic development and any other factors having a direct impact on the local community.

KRS 175B.030 is further amended to prohibit a state authority from entering into a public-private partnership related to a project connecting Kentucky with Ohio unless the General Assembly expressly authorizes the agreement by passage of a joint resolution.

KRS 175B.025 is amended to prohibit the authorization of tolls as part of any agreement or financial plan for any project involving the federal Interstate Highway System that connects Kentucky with Ohio or any project constituting a fully or partially controlled highway, whether or not involving the federal Interstate Highway System, that connects Kentucky with Ohio, including but not limited to a qualifying highway that constitutes a bypass of a major metropolitan area.

### **Emergency**

An emergency is declared. HB 309 became law on April 8, 2016, when signed by the Governor.

# EMERGENCY SERVICES



## **HB 384 LOCAL HEALTH AND FITNESS INCENTIVE PROGRAMS**

Sponsor: Representative Tom Riner (D-Louisville)

HB 384 creates a new section of KRS Chapter 64 to provide for the voluntary creation by a local government of a health and fitness-based incentive program for emergency services personnel to include personnel employed by or volunteering for a fire department, police department or sheriff's department. An ordinance establishing an incentive program must specify measurable health and fitness standards that may be used by the local government to reward participants in the program who make the most positive gains in relation to the standards. Each local government adopting an ordinance must send a copy electronically or by other means to the Kentucky Department for Local Government.

Participation in an incentive program by emergency services personnel is voluntary. The failure of any emergency services personnel to participate in a program or meet a standard set out in a program shall not be used as a measure of his or her job-related performance.

Any monetary reward provided by a local government as part of an incentive program shall not be included in calculation of a retirement allowance for emergency services personnel participating in the County Employees Retirement System.



## **HB 585 911 EMERGENCY SERVICES**

Sponsor: Representative Martha Jane King (D-Lewisburg)

HB 585 addresses many longstanding issues related to the delivery of 911 emergency services by local governments. Measures in the bill include increased funding for the delivery of 911 services by local governments, incentives for consolidation of public safety answering points (PSAPs) and more local government oversight of the state Commercial Mobile Radio Services (CMRS) fund. The bill additionally requires prepaid wireless providers to pay 911 service charges equivalent to postpaid wireless service charges and establishes the Kentucky 911 Services Board with more representation by local governments.

### **Locally Imposed 911 Fees**

KRS 65.760 is amended by HB 585 to require any provider of interconnected Voice over Internet Protocol (VoIP) and 911 emergency services to subscribers to collect and remit to the local government any fee levied by a local government for the provision of 911 emergency services. KRS 65.760, as amended, additionally limits expenditure of locally imposed 911 fees to costs directly attributable to the establishment, operation or maintenance of a PSAP; the delivery of 911 emergency services; or the provision of wireless enhanced 911 services. Permitted expenditures include personnel and related costs, travel costs, costs for professional services and costs for public education regarding the proper use of 911 emergency services. Expenditures not directly attributable to the delivery of 911 emergency services are prohibited.

## EMERGENCY SERVICES (CONT.)

### **Kentucky 911 Services Board**

KRS 65.7623 is amended to change the name of the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky (CMRS) to the Kentucky 911 Services Board.

Membership of the Board is increased from 10 to 15 members, composed of 11 voting members appointed by the Governor; two voting members who serve by virtue of their offices, and two nonvoting legislative members. The administrator of the CMRS fund and mayor of a city or urban county government previously serving on the Board are removed. New members of the Board include two members serving as city officials, one of whom must be an elected city official, from a list of four nominees submitted by the Kentucky League of Cities and two members serving as elected county officials from a list of four submitted by the Kentucky Association of Counties. New members also include the executive director of the Office of Homeland Security and two nonvoting legislative members appointed by the Speaker of the House and President of the Senate to serve in advisory capacities. The executive director of the Office of Homeland Security and commissioner of the Department of Kentucky State Police serve by virtue of their offices. The 911 Services Board is attached to the Office of Homeland Security for administrative purposes.

The Board shall elect a chair from among its voting members to preside over meetings of the Board, which must be conducted at least four times per year, two of which must be in congressional districts other than the one in which Frankfort is located. The Board must also appoint an administrator to serve as executive director to administer and conduct day-to-day operations of the Board but not serve as chair or member of the Board.

### **CMRS Fund**

KRS 65.7627 is amended to require the 911 Services Board to administer the commercial mobile radio service emergency telecommunications fund, the "CMRS fund." KRS 65.7627 is further amended to require prepaid wireless providers to pay 911 service charges to the CMRS fund equivalent to postpaid wireless service charges effective January 1, 2017.

A new section of KRS 65.7621 to 65.7643 is created to establish beginning January 1, 2017, a wireless prepaid service charge of \$0.93 to be collected at the point of sale by each retailer for the purchase or sale of prepaid calling cards for cell phones, the recharging of a reusable cell phone calling card, cell phones preloaded with a set dollar amount for minutes and the recharging of a preloaded cell phone. The amount of the service charge must be stated on a receipt provided to the purchaser. The reason for the difference in the \$0.70 postpaid charge and the \$0.93 prepaid charge is because of the difference in billing. Postpaid customers pay monthly 12 times per year, whereas the industry average for prepaid customers is nine times per year.

New sections of KRS Chapter 142 are created to require retailers to remit prepaid service charges collected to the Department of Revenue on or before the 20th day of each month for the preceding month on a form prescribed by the Department. A retailer may retain an amount not to exceed three percent of the gross amount of prepaid service charges collected for the cost of collecting and remitting the service charge. The Department must transmit prepaid service charges remitted to it by retailers to the Kentucky 911 Services Board on a monthly basis after deducting an amount equal to the actual operating and overhead expenses incurred in the collection and administration of the service charge, not to exceed one percent of the amount collected.

## EMERGENCY SERVICES (CONT.)

A new section of KRS 65.7621 to 65.7643 is created to establish beginning January 1, 2017, a wireless postpaid service charge for Lifeline providers in the amount of \$0.70 per month for each wireless connection provided to a low-income individual who qualifies for the Lifeline program. A Lifeline provider liable for the service charge may bill and collect from each end user the amount of the charge and remit all charges collected to the Kentucky 911 Services Board on or before 30 days after the end of each month for the preceding month, less an administration fee not to exceed one-and-a-half percent of the gross amount collected.

KRS 65.7631 is amended to adjust the apportionment formula for disbursement of moneys from the CMRS fund by ending cost recovery reimbursements to CMRS providers for compliance with wireless enhanced 911 federal requirements, making more funds available for disbursement to local PSAPs.

### **Transparency**

KRS 65.7629 is amended to increase the number of entities required to receive a copy of the report prepared every 24 months by an independent auditor retained by the 911 Services Board following an audit of the books of the Board, wireless providers and PSAPs to include the local government responsible for the formation of a PSAP, the Legislative Research Commission and the Auditor of Public Accounts.

KRS 65.7630 is amended to specify information required to be submitted each fiscal year to the 911 Services Board by local and state government agencies having jurisdiction over one or more PSAPs and by each wireless provider to assist the Board in annually evaluating 911 emergency communication funding procedures and costs. The Board must submit all data collected to the Legislative Research Commission by November 1 of each year.

### **Incentives for Consolidation of PSAPs**

KRS 65.7631 is amended by HB 585 to increase incentives for consolidation of PSAPs. Consolidation is encouraged by increasing the currently available incentive grant for consolidation of PSAPs from \$100,000 per PSAP, not to exceed \$200,000 per county, to \$200,000 per PSAP, not to exceed \$400,000 per county. PSAP consolidation is further encouraged by prioritizing grants for PSAPs that consolidate. When the balance of money in the CMRS fund not yet obligated to provide direct grants, matching money or funds to PSAPs exceeds \$2 million in any fiscal year, 50 percent of the excess amount is required by KRS 65.7631 to be allocated according to a method chosen by the Board. KRS 65.7631 is amended to give priority for distribution of the funds after January 1, 2017, to the following PSAPs to further encourage the consolidation of PSAPs by local and state government agencies:

1. A PSAP that is not a state police dispatch center and that covers all local governments within two or more counties shall receive first priority in distribution of the funds by the Board;
2. A PSAP, including any state police dispatch center, that covers all the local governments within a single county shall receive second priority in distribution of funds by the Board; and
3. A PSAP that does not cover all of the local governments within a single county shall receive the last priority for the distribution of funds.



## EMERGENCY SERVICES (CONT.)

Sections of HB 585 requiring point-of-sale collection of a prepaid wireless fee and collection of a postpaid service charge by Lifeline providers have a delayed effective date of January 1, 2017.



### **SB 43** **SURVIVORS OF EMERGENCY MEDICAL SERVICES PROVIDERS**

Sponsor: Senator Tom Buford (R-Nicholasville)

SB 43 amends KRS 61.315 to make survivors of paid or volunteer emergency services personnel whose death occurs as a direct result of an act in the line of duty on or after November 1, 2015, eligible to receive the state lump-sum death benefit in the sum of \$80,000 payable by the State Treasurer from the general fund to the survivors of any emergency services personnel whose death occurred in the line of duty in the manner prescribed by KRS 61.315.

“Emergency medical services personnel” is defined by SB 43 to mean any paid or volunteer emergency services personnel who is certified or licensed pursuant to KRS Chapter 311A and who is employed directly by, or volunteering directly for, any city or county; fire protection district created under KRS 75.010 to 75.200; or emergency ambulance service district created under KRS 108.080 to provide emergency medical services.

# FIRE PROTECTION SERVICES



## HB 343 FIRE PROTECTION TERRITORIES

Sponsor: Representative Mike Denham (D-Maysville)

HB 343 amends several statutes relating to fire protection districts and volunteer fire department districts created pursuant to KRS Chapter 75.

- ◆ KRS 75.010 is amended to delineate the territory that may be included during creation of a fire protection district or volunteer fire department district. Unless an agreement is in place for a newly formed district to assume services in a territory, a fire protection district or volunteer fire department district shall not include any territory within its proposed service area that lies within: (1) the corporate limits of a city; (2) the boundaries of an existing fire protection district or volunteer fire department district; (3) the service area boundaries of a fire department created under KRS Chapter 273 and certified under KRS 75.400 to 75.460; or (4) an area that is not contained within the boundaries of a city but has fire protection services provided by a city government.
- ◆ KRS 75.020 is amended to require a fire protection district or volunteer fire department district seeking to expand territory into an area served by a city or fire department created under KRS Chapter 273 to enter into a written agreement with the fire chief, the board of the fire department created pursuant to KRS Chapter 273, or with the city government providing fire protection services in the area proposed to be annexed. A fire protection district or volunteer fire department district established pursuant to KRS Chapter 75 may not expand its service boundaries or annex territory contained in another fire protection district or volunteer fire department district.
- ◆ KRS 75.022 is amended to establish that a city that does not maintain a regular fire department, but maintains its own volunteer fire department, has the right to provide fire services to new territory when territory annexed by the city is served at the time of annexation by a fire district that does not maintain a regular fire department. A city that does not maintain a regular fire department, but maintains its own volunteer fire department, does not have the primary right to provide fire services to any territory that is being served by a fire district that maintains a regular fire department, unless the fire district strikes the territory from the district boundaries.
- ◆ KRS 273.401, relating to nonprofit corporations, is amended to require written approval by the governing body of a city, fire protection district or volunteer fire department district before a fire department created pursuant to KRS 273.401 can add annual membership charges or subscriber fees to property tax bills of property owners within a territory that lies within the corporate limits of a city or within a fire protection district or volunteer fire department district established pursuant to KRS Chapter 75.
- ◆ A new section of KRS Chapter 95 is created to establish a secondary method for dissolution of a fire protection district or volunteer fire department district by authorizing the Commission on Fire Protection Personnel Standards and Education to initiate consideration of dissolution of a fire protection district or volunteer fire protection district, in lieu of a petition for dissolution filed with the county fiscal court pursuant to KRS 65.166.

## FIRE PROTECTION SERVICES (CONT.)

Upon receipt of a written affidavit from a resident, property owner or local government that a fire protection district or volunteer fire department district formed for the purpose of providing fire protection services has failed to provide those services, or that all or a portion of the services are being provided by another entity other than the district, the Commission on Fire Protection Personnel Standards and Education may: (1) refer the affidavit and any other supporting evidence that it has to the judge/executive of the county or counties forming the fire protection district or volunteer fire department district to consider action to dissolve the district or to alter its boundaries; or (2) initiate an investigation to be conducted by Commission personnel under the direction of the executive director to determine the validity of the alleged complaint. If the Commission undertakes an investigation, it must forward its findings in writing to the county or counties forming the fire protection district or volunteer fire department district and to any party submitting a written affidavit.

If, after investigation, the Commission finds that the fire protection district or volunteer fire department district has failed to provide services, or that all or part of the services are being provided by another entity, the findings shall be considered by the fiscal court or courts, which may elect to: (1) initiate the procedure for dissolution or alteration of the boundaries of the fire protection district or volunteer fire department district pursuant to 65.166, or (2) vote by a majority of the entire fiscal court membership to permit the Commission to conduct the hearing in accordance with KRS 65.166(4) and make a written determination for action to either dissolve or alter the boundaries of the fire protection district or volunteer fire department district. Any decision by the Commission to dissolve or alter the boundaries of the fire protection district or volunteer fire department district must be ratified by the fiscal court within 30 days following the issuance of the final written determination of the Commission. If the fiscal court takes no action to ratify the decision of the Commission, the decision of the Commission will be deemed ratified.



### **SB 195** **FIREFIGHTER ELIGIBILITY FOR STATE DEATH BENEFIT**

Sponsor: Senator Albert Robinson (R-London)

SB 195 amends KRS 61.315 relating to state lump-sum death benefits payable to survivors of paid and volunteer firefighters whose death occurs as a direct result of an act in the line of duty to create a presumption that death occurring as a result of certain cancers shall be considered a direct result of an act in the line of duty if the firefighter meets the following criteria:

- ◆ Actively served as a firefighter for at least five consecutive years;
- ◆ Developed one or more cancers which caused the firefighter's death;
- ◆ Did not use tobacco products for a period of 10 years prior to the diagnosis of cancer;
- ◆ Was under age 65 at the time of death;
- ◆ Was not diagnosed with any cancer prior to employment as a firefighter; and

## **FIRE PROTECTION SERVICES (CONT.)**

- ♦ Was exposed while in the course of firefighting to a known carcinogen defined by the International Agency for Research on Cancer or the National Toxicology Program and the carcinogen is reasonably associated with one or more of the following cancers: bladder, brain, breast, cervical, colon, kidney, liver, lymphatic or haematopoietic, non-Hodgkin's lymphoma, prostate, skin or testicular.

The provisions of SB 195 shall not be interpreted to create either an express or implied presumption of work-relatedness for any type of claim filed pursuant to KRS Chapter 342 for workers' compensation benefits.

An emergency is declared. SB 195 became law on April 4, 2016, without the Governor's signature.

### **SB 249 FIRE DEPARTMENT REPORTING STANDARDS**

Sponsor: Senator Albert Robinson (R-London)

SB 249 amends KRS 65A.010 to exclude from the definition of special purpose governmental entity any fire protection district or volunteer fire department district operating under KRS Chapter 75 and any fire department incorporated under KRS Chapter 273 with the higher of annual receipts from all sources or annual expenditures of less than \$100,000.

A new section of KRS Chapter 95A is created to require a fire department with annual revenues or expenditures equaling or exceeding \$100,000 for two consecutive fiscal years to comply with financial reporting requirements for special purpose governmental entities under KRS Chapter 65A for the next reporting period and any subsequent reporting period for which annual revenues or expenditures exceed \$100,000 until its annual revenues or expenditures are less than \$100,000.

Beginning on and after July 1, 2016, the governing body of each fire protection district or volunteer fire department district operating under KRS Chapter 75 and any fire department incorporated under KRS Chapter 273 with the higher of annual receipts from all sources or annual expenditures of less than \$100,000 must submit administrative and financial information to the Fire Protection Personnel Standards and Education Commission as detailed in SB 249 and administrative regulations promulgated by the Commission to ensure all public funds received by the fire departments are responsibly used. The Commission must review the reports and communicate any deficiencies to affected fire departments.

The Commission may prescribe corrective actions to bring fire departments that are not in compliance with reporting requirements for special purpose governmental entities under KRS Chapter 65A into compliance with the provisions of KRS Chapter 95A. Any sanctions imposed by the Department for Local Government prior to the effective date of SB 249 shall be lifted upon notification by the Commission that a deficient fire department has complied with corrective actions prescribed by the Commission.

If a fire department fails to comply with reporting requirements of SB 249, the Fire Commission may withhold: (1) incentive pay to qualified firefighters under KRS 95A.250; (2) volunteer fire

## **FIRE PROTECTION SERVICES (CONT.)**

department aid; (3) funds used to purchase workers' compensation insurance for fire departments; (4) low-interest loans under KRS 95A.262; (5) funds from the Thermal Vision Grant program under KRS 95A.400 to 95A.440; and (6) any other funds that the Commission controls.

The Commission may report any irregularities that it identifies relating to the finances or operations of a fire department to the Attorney General, Auditor of Public Accounts or other public official with jurisdiction over the fire department for further investigation and review.

On or before October 1, 2016, and each October 1 thereafter, the Fire Protection Personnel Standards and Education Commission must file an annual report with the Legislative Research Commission detailing compliance by fire departments with the reporting requirements of SB 249.

## LAW ENFORCEMENT



### **HB 124 CONFISCATED FIREARMS**

Sponsor: Representative Dennis Keene (D-Wilder)

HB 124 amends KRS 16.220 to permit proceeds of sales of confiscated firearms conducted by the Department of Kentucky State Police to be utilized by the Kentucky Office of Homeland Security to provide grants to local government police departments, sheriff departments, university safety and security departments, and school districts that employ special law enforcement officers for the purchase of body-worn cameras, after giving first priority to grants for the purchase of body armor for peace officers and service animals and second priority to grants for the purchase of firearms and ammunition. Any department applying for grant funds for body-worn cameras must develop a policy for their use and submit the policy with its application for grant funds to the Office of Homeland Security as part of the application process.



### **HB 149 WORK PERIODS WITHIN A CONSOLIDATED LOCAL GOVERNMENT**

Sponsor: Representative Jeffery Donohue (D-Fairdale)

HB 149 amends KRS 337.285 relating to minimum wage to permit a law enforcement department of a consolidated local government and a representative of a collective bargaining unit representing peace officers within a consolidated local government to agree to an 80-hour work period over 14 consecutive days without incurring an obligation to pay a rate of not less than one-and-a-half times the officer's hourly wage if a work period is longer than 40 hours in any seven consecutive days in a 14-day work period.

An emergency is declared. HB 149 became law on April 6, 2016, when signed by the Governor.



### **HB 250 MISDEMEANOR ARRESTS**

Sponsor: Representative Ruth Ann Palumbo (D-Lexington)

HB 250 amends KRS 431.015 to expand the offenses for which a peace officer may make an arrest instead of issuing a citation for a misdemeanor offense committed in his presence to include possession of burglar's tools, domestic violence shelter trespass, receiving stolen property and giving a peace officer false identifying information.

KRS 523.110 is also amended by HB 250 to include intentionally giving a false date of birth to a peace officer with the intent to mislead the officer as an element of the offense of giving a peace officer false identifying information. Giving a peace officer false identifying information is a Class B misdemeanor.

## LAW ENFORCEMENT (CONT.)



### **HB 314 FIREARMS CARRIED BY CURRENT AND RETIRED PEACE OFFICERS**

Sponsor: Representative Steve Riggs (D-Jeffersontown)

HB 314 creates a new section of KRS Chapter 237 relating to firearms to allow off-duty peace officers authorized to do so by the government employing the officer and retired peace officers certified under KRS 237.138 to 237.142 to carry concealed firearms on or about their persons at all times and at any location within the state where an on-duty peace officer is permitted to carry firearms.

An emergency is declared. HB 314 became law on April 13, 2016, when signed by the Governor.

### **SB 63 SEXUAL ASSAULT EVIDENCE COLLECTION**

Sponsor: Senator Denise Harper Angel (D-Louisville)

SB 63 establishes procedures for handling sexual assault evidence collection by law enforcement agencies.

KRS 15.440 is amended by SB 63 to add additional requirements for eligibility by local governments to share in the distribution of funds from the Law Enforcement Foundation Program Fund. To continue to qualify for funds, each local government must possess by January 1, 2017, a written policy and procedures manual related to sexual assault examinations that meets standards established by the Justice and Public Safety Cabinet and includes the following:

1. A requirement that evidence collected as the result of a sexual assault examination be taken into custody within five days of notice from the collecting facility that the evidence is available for retrieval;
2. A requirement that evidence received from a collecting facility relating to an incident that occurred outside the jurisdiction of the local police department be transmitted to a department with jurisdiction within 10 days of receipt by the department;
3. A requirement that all evidence retrieved from a collecting facility be transmitted to the Department of Kentucky State Police forensic laboratory within 30 days of receipt by the department;
4. A requirement that a suspect standard, if available, be transmitted to the Department of Kentucky State Police forensic laboratory with the evidence received from a collecting facility; and
5. A process for notifying the victim from whom the evidence was collected of the progress of the testing, whether the testing resulted in a match to other DNA samples and if the evidence is to be destroyed. The policy may include provisions for delaying notice until a

## LAW ENFORCEMENT (CONT.)

suspect is apprehended or the Office of the Commonwealth's Attorney consents to the notification, but shall not automatically require disclosure of the identity of any person to whom the evidence matched.

The policy and procedures manual must be approved by the Justice and Public Safety Cabinet prior to January 1, 2017.

Failure to meet a deadline established in a policy shall not be a basis for dismissal of a criminal action or for the inadmissibility of the evidence in a criminal action.

The Department of Kentucky State Police is required by SB 63 to analyze and classify all sexual assault evidence collection kits it receives. The average completion rate must not exceed 90 days by July 1, 2018, and 60 days by July 1, 2020. Average completion time goals are not required to be met if appropriated funds are insufficient.

The Department of Kentucky State Police must report to the Legislative Research Commission by August 1 of each year the yearly average completion rate for the immediately preceding five fiscal years.

All sexual assault evidence collection kits collected prior to the effective date of SB 63 must be submitted to the Department of Kentucky State Police forensic laboratory by January 1, 2017.

KRS 15.334 is amended by SB 63 to require the Kentucky Law Enforcement Council to include at least eight hours of training relevant to sexual assault in a law enforcement basic training course beginning January 1, 2017. The council must additionally establish by January 1, 2017, a 40-hour sexual assault investigation training course. By January 1, 2019, all law enforcement agencies must have one or more officers trained in the curriculum depending on the size of the agency. Agencies with five or fewer officers must have at least one officer trained in sexual assault investigation; agencies with more than five officers but fewer than 30 officers must have at least two officers trained in sexual assault investigation; agencies with 30 or more officers must have at least four officers trained in sexual assault investigation.

KRS 403.707 is amended to expand the responsibilities of the Sexual Assault Response Team Advisory Committee, created pursuant to KRS 403.707, by requiring the committee to:

1. Provide assistance to each regional rape crisis center by establishing a regional sexual assault response team;
2. Develop policies for law enforcement agencies related to investigation of sexual assault cases with a victim-centered approach;
3. By January 1, 2018, report to the General Assembly the results of the analysis of previously untested sexual assault evidence collection kits by the Kentucky State Police forensic laboratory and whether testing led to identification and prosecution of suspects; and
4. By July 1, 2018, and by each July 1 thereafter, report to the General Assembly and to the Secretary of the Justice and Public Safety Cabinet on the number of sexual assaults



## LAW ENFORCEMENT (CONT.)

reported, the number of evidence collection kits submitted to the Kentucky State Police forensic laboratory, the number of kits tested, and the number of charges filed and convictions obtained in sexual assault cases in the previous calendar year.

A new section of KRS Chapter 16 is created to require the Kentucky State Police to collect and provide to the Sexual Assault Response Team Advisory Committee by May 1, 2018, and each May 1 thereafter, the following information for the previous calendar year:

1. Statistical data from law enforcement agencies regarding the reporting and investigation of persons charged with a sexual offense;
2. The number of sexual assault evidence collection kits submitted to law enforcement agencies;
3. The number of sexual assault evidence collection kits submitted to the Kentucky State Police forensic lab; and
4. The number of sexual assault evidence collection kits tested.

A new section of KRS Chapter 27A is created to require the Administrative Office of the Courts to collect and provide to the Sexual Assault Response Team Advisory Committee by May 1, 2018, for the previous calendar year and by each May 1 thereafter, statistical data regarding the prosecution, dismissal, conviction or acquittal of any person charged with committing, attempting to commit or complicity to a sexual offense.

SB 63 shall be known as the Sexual Assault Forensic Evidence (SAFE) Act of 2016. An emergency is declared. SB 63 became law on April 8, 2016, when signed by the Governor.

## LOCAL GOVERNMENT ADMINISTRATION



### **HB 52 COAL SEVERANCE TAX REFUNDS**

Sponsor: Representative Mike Denham (D-Maysville)

HB 52 amends KRS 42.470 to provide that effective July 1, 2016, quarterly distributions of local government economic assistance fund moneys to a mineral producing and incorporated areas within the county shall be reduced by no more than 50 percent as a result of any refund of the tax imposed on the severance and processing of minerals. If a refund of tax occurs and a county's allocated share of the refund amount is greater than 50 percent of the quarterly distribution due that county and its incorporated areas, the remainder shall carry forward to be offset in successive quarters as necessary until it is satisfied in full. Each quarterly transfer shall be adjusted to account for refunds by determining the total amount of refunds paid in the prior fiscal year and dividing that amount by four.

HB 52 additionally amends KRS 42.4592 to change the formula used for allocating Local Government Economic Development funds back to coal producing counties, previously a basis of the ratio of total coal severance tax collected in the current and preceding four years in each respective county to the total tax collected statewide in the current and four preceding years. The new formula establishes a basis of the ratio of total coal severed in the current and preceding four years in each respective county to the total coal severed statewide in the current and four preceding years.

HB 52 also amends KRS 42.475 to establish a minimum amount for any quarterly distribution of local government economic assistance fund moneys under the provisions of KRS 42.470 to incorporated areas within a mineral producing county if the amount of funds to be allocated to an incorporated area is less than \$25 in any given quarter. If the amount of funds to be allotted is less than \$25, the allotment shall not be made and the applicable funds shall instead be distributed to the county to which the funds were allocated.

An emergency is declared. The above provisions of HB 52 take effect July 1, 2016.



### **HB 189 INTERLOCAL AGREEMENTS**

Sponsor: Representative Tom McKee (D-Cynthiana)

HB 189 creates a new section of KRS Chapter 65 to simplify procedures for amendment of an interlocal agreement if the sole purpose of an amendment to an interlocal agreement is to join new parties or remove existing parties. When an agreement is amended to add new parties or remove existing parties, approval by the Attorney General or the Department for Local Government under KRS 65.260, or approval by any state agency or officer with jurisdiction over services or facilities that are the subject matter of the interlocal agreement under KRS 65.300, is not required for the amendment to be effective. Each public agency subject to the agreement, including any public agency withdrawing from the agreement, must send the following to the county clerk of the county in which it is located, to the Secretary of State, and to either the Attorney General or the

## LOCAL GOVERNMENT ADMINISTRATION (CONT.)

Department for Local Government, if either agency would have had responsibility for review under KRS 65.260:

1. A copy of the full agreement, including amendments;
2. A statement containing the effective date and subject of the original agreement;
3. A list of the parties being added or removed from the agreement; and
4. A certification signed by each party being added to the agreement that confirms that the party is: (a) a public agency as defined in KRS 65.230; and (b) eligible under KRS 65.240 to join the interlocal agreement with the existing parties to the agreement.

Public agencies may specify in an interlocal agreement the manner in which parties may be added to or removed from the agreement with or without a requirement of action by the legislative body of each public agency that is a party to the existing agreement or with a requirement of action by a minimum percentage of the legislative bodies of the public agencies that are parties to the agreement. In the absence of language, action by the legislative body of each public agency that is a party to the existing agreement is required to amend an agreement to add new parties or remove existing parties.

### **HB 497** **PREEMPTION OF SEED REGULATION**

Sponsor: Representative Wilson Stone (D-Scottsville)

HB 497 creates a new section of KRS 250.021 to 250.111 to prohibit any city, county or other political subdivision of the state to adopt or continue in effect any ordinance, resolution, rule or regulation regarding the registration, packaging, labeling, sale, storage, distribution, use, application or propagation of seeds as regulated pursuant to KRS 250.021 to 250.111. Any local legislation in violation of the section is void and unenforceable. Nothing in HB 497 shall be construed to abrogate the planning and zoning authority granted to local governments pursuant to KRS Chapter 100.



### **HCR 13** **MUNICIPAL BANKRUPTCY STUDY**

Sponsor: Representative Brad Montell (R-Shelbyville)

House Concurrent Resolution 13 directs the staff of the Legislative Research Commission to conduct a study of municipal bankruptcy issues that includes: (1) an overview of federal and state municipal bankruptcy laws; (2) a summary of municipal bankruptcy laws in other states; and (3) prevention practices implemented in other states to address municipal bankruptcy.

Results of the study must be transmitted to the Legislative Research Commission by December 1, 2016, for distribution to the appropriate interim joint committee or committees.

## LOCAL GOVERNMENT ADMINISTRATION (CONT.)



### **SB 46 LOCAL GOVERNMENT PENSION PLANS**

Sponsor: Senator Chris McDaniel (R-Taylor Mill)

SB 46 amends various statutes relating to local government pension plans in former first through fifth class cities, urban county governments and consolidated local governments that were closed to new hires effective August 1, 1988, as a result of placement of employees hired after August 1, 1988, in the County Employees Retirement System. The amendments provide for restructuring of boards governing closed plans if there are fewer than six active and retired members of a plan and procedures for final liquidation of a pension plan when all liabilities to individuals entitled to benefits from a plan have been satisfied. SB 46 additionally amends KRS 65.156 to authorize actuarial valuations of pension funds closed to new hires at least every five years, rather than every three years, if there are fewer than six active and retired members of a fund.

Local pension plans amended include:

1. Policemen's and Firefighters' Pension Fund in cities formerly classified as cities of the third class (KRS 95.520 to 95.620);
2. Alternative Policemen's and Firefighters' Pension Fund in cities formerly classified as cities of the third class (KRS 95.621 to 95.629);
3. Civil Service Commission in cities formerly classified as cities of the fourth class (KRS 95.761);
4. Policemen's and Firefighters' Pension Fund in cities formerly classified as cities of the fourth and fifth class (KRS 95.767 to 95.784);
5. Police and Firefighters' Retirement Fund in cities formerly classified as cities of the second class (KRS 95.851 to 95.884);
6. Civil Service Commission in an Urban County Government (KRS 67A.210 to 67A.350);
7. Civil Service Commission in cities of the home rule class (KRS 90.310 to 90.410); and
8. Policemen's Pension Fund and Firefighters' Pension Fund in a city of the first class (KRS 95.290).

## LOCAL GOVERNMENT ADMINISTRATION (CONT.)



### **SB 167 CITY GOVERNMENT OPERATIONS**

Sponsor: Senator Mike Wilson (R-Bowling Green)

SB 167 includes several KLC initiatives relating to city governments.

#### **Disposition of City Property**

SB 167 amends KRS 82.083 to authorize additional methods for a city to sell or dispose of its real or personal property. The bill permits property to be:

1. Transferred with or without compensation for economic development purposes, which shall include but not be limited to real property transfers for the elimination of blight;
2. Traded towards the purchase of the same or similar type of property, if the trade-in value received equals or exceeds the actual fair market value of the property as determined using an independent appraisal;
3. Sold for its appraised fair market value or a greater amount if the property is valued at \$5,000 or less in an independent appraisal, so long as the sale is not to a city officer or employee or family member of a city officer or employee as defined in the city's ethics ordinance;
4. Sold for scrap or disposed of as garbage in a manner consistent with the public interest if the property has no value, or is of nominal value as determined by an independent appraisal; or
5. Sold by the Finance and Administration Cabinet under an agreement with the city.

"Independent appraisal" is defined by SB 167 to mean:

1. An appraisal made by an individual or organization not affiliated with the city or its officers or employees, using a generally accepted national or professional standard; or
2. A city's officers or employees using a nationally published valuation of property based on the most recent edition of the publication.

#### **Ward System**

KRS 83A.100 is amended to allow a city to, in addition to the existing method, establish a hybrid ward system for the conduct of its legislative body elections. Under a hybrid ward system, the ordinance creating the ward system must provide that a specific number of legislative body seats are subject to the traditional ward system and a specific number of legislative body seats are elected at large within the entire city without representing a particular ward. The wards created must be as nearly equal in population as practicable with specific boundaries fixed by ordinance.

## LOCAL GOVERNMENT ADMINISTRATION (CONT.)

### Oaths of Police Officers

KRS 95.490 is amended to delete the requirement that oaths of police officers prior to entering upon the discharge of their duties be administered before the mayor.

### War Memorial Commissions

KRS 97.630 is amended to allow the legislative body of any city of the home rule class to elect to reduce the number of required members of a war memorial commission from 16 members to not less than five members by enacting an ordinance to establish an alternate number of members to serve on the commission, each for a term of three years. A city establishing an alternate number of members shall not require the removal of any serving member, but, upon expiration of a term, not fill the position until the number of members equals the number provided in the ordinance enacted by the city.

### Transfer of Property Between Government Agencies

KRS 424.260 is amended to exempt real or personal property transferred by a city, with or without compensation, to another governmental agency from any requirement to advertise for bids.

### Publication of Due Date of Ad Valorem Tax

KRS 424.280 is amended to allow newspaper publication of an ordinance adopting an ad valorem tax rate to satisfy the requirement of KRS 424.280 to publish the due date of the ad valorem tax if the due date of the tax is published as a component of the city ordinance levying the tax.

### Maintenance of Cemeteries

KRS 381.687 is amended to authorize the governing body of a city to require any public or private cemetery within its corporate limits to be properly maintained by the owner or those having claims to the grounds.



### SB 168 MUNICIPAL AUDITS

Sponsor: Senator Stephen West (R-Paris)

SB 168 amends KRS 43.050 to clarify the Auditor of Public Accounts may conduct a special audit or examination of a city government or any of its agencies or departments. Within a reasonable time after completion of an audit or examination, the Auditor of Public Accounts must submit a bill to the city for the expense of the audit or examination that includes a statement of the hourly rate, hours of work performed and reasonable associated costs, including but not limited to travel costs.

SB 168 additionally amends KRS 91A.040 to delete the current requirement for the Department for Local Government to forward an electronic or paper copy of city audit reports and financial statements received by it to the Legislative Research Commission and to instead require the Department for Local Government to make available either an electronic or paper copy upon request.

## PUBLIC SAFETY TRAINING

### **HB 52** **REIMBURSEMENT OF STATE POLICE TRAINING COSTS**

Sponsor: Representative Mike Denham (D-Maysville)

Among other provisions creating new ranks within the Kentucky State Police, HB 52 amends KRS 16.050 to require a city, county or other local law enforcement agency within the state to reimburse the Department of Kentucky State Police for all training costs incurred in providing initial training to an officer if the officer accepts employment with a city, county or other local law enforcement agency within three years of completing the basic training course offered by the Department. The amount of the reimbursement, which may not be prorated, shall include but not be limited to the application process, training costs, equipment costs, salary and fringe benefits.



### **HB 473** **PUBLIC SAFETY PERSONNEL TRAINING**

Sponsor: Representative Steve Riggs (D-Jeffersontown)

HB 473 amends various statutes to establish maximum hours required for basic and in-service training for police officers, telecommunicators and firefighters.

#### **Police Officer Training**

HB 473 amends KRS 15.440 to set the maximum number of hours of instruction required for completion of basic training for participation by police officers, sheriffs, deputy sheriffs and public university police officers in the Law Enforcement Foundation Program Fund at 928 hours. The required number of training hours may be changed only by promulgation of an administrative regulation setting an exact number of hours required for basic training different from 928 hours.

KRS 15.440 is further amended by HB 473 to set the required number of hours for annual in-service training for police officers, sheriffs and deputy sheriffs at 40 hours rather than "at least" 40 hours as presently required. Any change in the number of hours required for in-service training will require legislative action by the General Assembly.

KRS 70.263 and KRS 95.955 are amended relating to deputy sheriff merit boards and auxiliary police to conform the hours required for basic training to 928 hours.

#### **Telecommunicators**

HB 473 amends KRS 15.530 and 15.550 to limit the number of required basic training hours for law enforcement telecommunicators to 40 hours, rather than "at least" 40 hours as presently required.

KRS 15.530 is additionally amended to limit the number of hours required for completion of the "non-CJIS (Criminal Justice Information System) telecommunicator academy" training course to 120 hours and the number of hours required for completion of the "telecommunications academy" training course to 160 hours, rather than "at least" 120 hours and 160 hours, respectively, as presently required.

## **PUBLIC SAFETY TRAINING (CONT.)**

KRS 15.590 is amended by HB 473 to permit the Kentucky Law Enforcement Council to establish a different number of hours of instruction for completion of the non-CJIS telecommunicator academy and the telecommunications academy only by promulgation of administrative regulations establishing an exact number of hours different from 120 hours and 160 hours, respectively.

KRS 15.560 and KRS 15.565 are amended to limit the number of required annual in-service training hours for CJIS and non-CJIS telecommunicators to eight hours, rather than "at least" eight hours as presently required. The Kentucky Law Enforcement Council is prohibited from changing the required number of in-service training hours for telecommunicators.

### **Firefighters**

HB 473 amends KRS 95A.230 to limit the number of hours required for completion of a basic training course for firefighters to 400 hours, rather than "a minimum of" 400 hours as presently required. The number of required hours may be reduced but not increased by the Commission on Fire Protection Personnel Standards and Education by promulgation of an administrative regulation.

KRS 95A.230 is further amended by HB 473 to limit the number of hours required for annual in-service training for firefighters to 100 hours, rather than "at least" 100 hours as presently required. The number of required hours may be reduced but not increased by the Commission by promulgation of an administrative regulation.

KRS 95A.240 is amended to authorize the Commission to certify basic training programs and in-service training programs offered by a local government conducting its own basic training and in-service training for firefighters that may require hours of instruction different than the 400 hours of basic training and 100 hours of in-service training required by the Commission.

KRS 95A.262 is amended to limit the number of hours of training required to be completed by firefighters in a volunteer fire department for the fire department to qualify for volunteer fire department aid pursuant to KRS 95A.262 to 150 hours. The number of required hours may be reduced but not increased by the Commission by promulgation of an administrative regulation.



## RETIREMENT



### **HB 153 VOLUNTEER SERVICE AND PUBLIC EMPLOYEE RETIREMENT**

Sponsor: Representative Jerry Miller (R-Louisville)

HB 153 amends KRS 61.510 and 78.510 to exclude from creditable compensation nominal fees paid to volunteers of a participating agency who begin participating in the Kentucky Employees Retirement System (KERS) or the County Employees Retirement System (CERS) on or after August 1, 2016. The bill attempts to address a situation related to volunteer firefighters who have retired from full-time employment and want to serve as volunteer firefighters without a break in service.

KRS 61.637 is amended by HB 153 to provide that a retiree of KERS or CERS who receives reimbursements of actual expenses or nominal fees for his or her volunteer services shall not be considered an employee of the participating employer subject to the required break in employment and prohibition on prearranged agreements prior to retirement if:

1. The retired member did not receive creditable compensation prior to retirement from the participating employer for which the retired member is providing volunteer services;
2. Any reimbursement or nominal fee received prior to retirement has not been classified as creditable compensation to the member's account or used to determine retirement benefits;
3. The retired member has not purchased or received service credit for service with the participating employer for which the retired member is providing volunteer services; and
4. The retired member does not become an employee, leased employee or independent contractor of the employer for which he or she is providing volunteer services for a period of at least 24 months following the retired member's most recent retirement date.

If a retired member violates any provision of HB 153, he or she shall be deemed an employee of the participating employer as of the date he or she began providing volunteer services.

"Nominal fee" is defined by HB 153 to mean compensation earned for services as a volunteer that does not exceed \$500 per month.

"Volunteer" is defined by HB 153 to mean an individual who: (1) freely and without pressure or coercion performs hours of service for an employer participating in one of the systems administered by the Kentucky Retirement Systems without receipt of compensation for services rendered, except for reimbursement of actual expenses, payment of a nominal fee to offset the costs of performing the voluntary services, or both; and (2) if a retired member does not become an employee, leased employee or independent contractor of the employer for which he or she is performing volunteer services for a period of at least 24 months following the retired member's most recent retirement date.

## RETIREMENT (CONT.)



### **HB 238 PUBLIC PENSION PLAN REPORTING**

Sponsor: Representative Brent Yonts (D-Greenville)

HB 238 amends various statutes relating to state-administered pension plans. KRS 6.350 is amended to require the actuarial analysis of any legislation proposing a change in benefits, participation or accrued liability of a state-administered retirement system to include the projected impact of the proposed legislation on funding levels, unfunded liabilities and annual employer costs over a period of 20 years. The actuary completing the analysis must be a fellow of the Conference of Consulting Actuaries or a member of the American Academy of Actuaries.

KRS 7A.250 is amended to require the Public Pension Oversight Board to retain an actuary to perform an actuarial audit of the state-administered retirement systems at least once every five years and to review state-administered retirement system budget requests prior to each budget biennium. The cost of the actuarial services must be paid by the state-administered retirement systems to the Legislative Research Commission.

KRS 21.440, 61.670 and 161.400 are amended to require all state-administered retirement systems to include the following in periodically required actuarial valuations:

1. A description of any funding methods utilized or required by state law in the development of the actuarial valuation results;
2. A description of any changes in actuarial assumptions and methods from the previous actuarial valuation;
3. The actuarially recommended contribution rate for employers for the upcoming budget periods;
4. A 20-year projection of the funding levels, unfunded liabilities and actuarially recommended contribution rates for employers based upon the actuarial assumptions, funding methods and experience of the system as of the valuation date; and
5. A sensitivity analysis that evaluates the impact of changes in system assumptions, including but not limited to the investment return assumption, payroll growth assumption and medical inflation rates, on employer contribution rates, funding levels and unfunded liabilities.

KRS 21.440, 61.670 and 161.400 are additionally amended to require the state-administered retirement systems to conduct an actuarial investigation of previously adopted actuarial assumptions and funding methods at least once every five years. The investigation must include at a minimum a summary of recommended changes in actuarial assumptions and funding methods and the projected impact of the recommended changes on funding levels, unfunded liabilities and actuarially recommended contribution rates for employers over a 20-year period.

All valuations and actuarial investigations must be certified by an actuary who is a fellow of the Conference of Consulting Actuaries or a member of the American Academy of Actuaries.

## RETIREMENT (CONT.)

A copy of each required analysis, valuation and actuarial investigation must be forwarded electronically to the Legislative Research Commission.

KRS 48.040 is amended by HB 238 to require each of the state-administered retirement systems to submit to the Office of the State Budget Director and the Legislative Research Commission:

1. A preliminary projection of the actuarially required contribution rates payable for the budget biennium that begins the following fiscal year on or before August 15 of each odd-numbered year; and
2. Revised projections of the actuarially required contribution rates payable for the budget biennium that begins the following fiscal year based on the most recently completed actuarial valuation on or before November 15 of each odd-numbered year.

### **Kentucky Permanent Pension Fund**

A new section of KRS Chapter 42 is created to establish within the Finance and Administration Cabinet the Kentucky permanent pension fund for the purpose of addressing the state's unfunded pension liabilities. The proceeds contained in the fund shall be used only for contributions to state pension funds.

The fund may receive:

1. State appropriations;
2. The net proceeds from the sale of real property owned by the state; and
3. Any settlements or judgments resulting from litigation in which the state is a party after deductions for litigation costs and mandatory restitution to consumers.

All amounts in the fund shall remain in the fund and not be expended or appropriated without express authority in an enacted biennial budget.

### **HB 271 PUBLIC PENSION OVERSIGHT BOARD**

Sponsor: Representative Jerry Miller (R-Louisville)

HB 271 creates a new section of KRS 7A.200 to 7A.260 to require the state-administered retirement systems to collectively file a report with the Public Pension Oversight Board on or before November 15 following the close of each fiscal year that includes the following information for each member or recipient of a retirement benefit from any of the state-administered retirement systems:

1. A unique identification number for each member or recipient created solely for purposes of compiling the report that is not the member's Social Security number or personal identification number issued by the systems;

## RETIREMENT (CONT.)

2. The system or systems in which the member has an account or from which the retired member is receiving a monthly retirement allowance;
3. The status of the member or recipient, including but not limited to whether he or she is a contributing member, a member who is not currently contributing to the systems but has not retired, a retired member, a beneficiary, or a retired member who has returned to work following retirement with an agency participating in the systems;
4. If the individual is a retired member or beneficiary, the annualized monthly retirement allowance that he or she was receiving at the end of the most recently completed fiscal year; and
5. If the individual is a member who has not yet retired, the estimated annual retirement allowance that he or she is eligible to receive at his or her normal retirement date based upon his or her service credit, final compensation and accumulated account balance at the end of the most recently completed fiscal year.

The Public Pension Oversight Board may utilize the information collected to carry out the duties of the Board or to respond to data requests from members of the Public Pension Oversight Board or members of the General Assembly.



### **HB 281** **RETIREMENT BENEFITS FOR LOCAL ELECTED OFFICIALS**

Sponsor: Representative Jim DeCesare (R-Bowling Green)

HB 281 amends KRS 61.637 to allow a mayor or member of a city legislative body who has not participated in the County Employees Retirement System prior to retirement, but who is otherwise eligible to retire from the Kentucky Employees Retirement System or the State Police Retirement System due to other employment, to retire and draw benefits from the Kentucky Employees Retirement System or the State Police Retirement System without resigning his or her position as mayor or member of the city legislative body.



### **SB 206** **REEMPLOYMENT OF RETIRED POLICE OFFICERS**

Sponsor: Senator Danny Carroll (R-Paducah)

SB 206 creates a new section of KRS Chapter 95 to permit cities, with certain limitations, to employ individuals as police officers who have retired from the Kentucky Employees Retirement System, the County Employees Retirement System or the State Police Retirement System without payment by the city of employer contributions or retiree health expense reimbursements to the Kentucky Retirement Systems otherwise required pursuant to KRS Chapters 16, 18A, 65, or 78.

## RETIREMENT (CONT.)

To be eligible for employment, an individual must have:

1. Participated in the Law Enforcement Foundation Program Fund under KRS 15.410 to 15.510 or retired as a commissioned state police officer pursuant to KRS Chapter 16;
2. Retired with at least 20 years of service credit;
3. Been separated from service for the period required by KRS 61.637 so that the member's retirement is not voided;
4. Retired with no administrative charges pending; and
5. Retired with no preexisting agreement between the individual and the city prior to the individual's retirement for the individual to return to work for the city.

Individuals employed pursuant to SB 206 shall be employed based upon need as determined by the employing city for a term not to exceed one year with compensation according to standard procedures applicable to the employing city. The one-year term of employment may be renewed annually at the discretion of the employing city.

A city government is limited in the number of retired police officers it may hire under SB 206 as follows:

1. A city government that employed an average of five or fewer police officers over the course of calendar year 2015 is not limited in the number of officers it may hire;
2. A city government that employed an average of more than five but fewer than 100 police officers over the course of calendar year 2015 shall hire no more than five police officers or a number equal to 25 percent of the police officers employed by the city in calendar year 2015, whichever is greater; and
3. A city government that employed an average of more than 100 police officers over the course of calendar year 2015 shall hire no more than 25 police officers or a number equal to 10 percent of the police officers employed by the city in calendar year 2015, whichever is greater.

## REVENUE AND SPENDING



### **HB 55 TRANSIENT ROOM TAX IN AN URBAN COUNTY GOVERNMENT**

Sponsor: Representative Jim Wayne (D-Louisville)

HB 55 amends KRS 153.450 to authorize an urban county government to levy an additional 2.5 percent transient room tax above the current 2.0 percent “additional transient room tax” authorized by KRS 153.450 to provide funding for the renovation, expansion or improvement of a convention center in an urban county government. Proceeds from the levy must be used only for direct payment of expenditures or repayment of debt associated with the project and sunset upon completion of the project and repayment of all associated debt.

### **HB 303 EXECUTIVE BRANCH BIENNIAL BUDGET**

Sponsor: Representative Rick Rand (D-Bedford)

The final version of the Executive Branch budget includes the following items related to cities:

- ♦ The Kentucky Retirement Systems (KRS) will receive over \$185 million more than the previous biennium for the Kentucky Employees Retirement System (KERS) and the State Police Retirement System (SPRS). The budget also calls for a performance audit of the state-administered retirement systems, including the County Employees Retirement System (CERS).
- ♦ The Local Government Economic Assistance Fund (LGEA) will receive 50 percent of coal severance tax revenues, up from 15 percent as authorized by statute. This fund is distributed to coal-producing and coal-impacted counties, with at least 10 percent of those funds going to city governments.
- ♦ The training supplement for peace officers through the Kentucky Law Enforcement Foundation Program Fund (KLEFPF) is increased to \$4,000 per year. In previous years, the supplement was \$3,100 per officer, compared to the statutorily authorized \$3,000 incentive. The budget does not reimburse employers for the additional costs associated with administering the increased incentive pay amount.
- ♦ The training supplement for firefighters through the Kentucky Firefighters Foundation Program Fund (KFFPF) is increased to \$4,000 per year. In previous years, the supplement was \$3,100, compared to the statutorily authorized \$3,000 incentive. The budget does not reimburse employers for the additional costs associated with administering the increased incentive pay amount.
- ♦ The aid payment for qualified volunteer fire departments is increased from the statutory amount of \$8,250 to \$11,000.
- ♦ Although the Governor and the Senate endorsed eliminating prevailing wage requirements for public authorities, including cities, the final budget does not include any provision eliminating or restricting current statutory prevailing wage requirements.

## SOLID WASTE COLLECTION

### **HB 402** **TAXATION OF PROPERTY USED AS A LANDFILL**

Sponsor: Representative Mike Denham (D-Maysville)

HB 402 creates a new section of KRS Chapter 132 to require the valuation and assessment of real and tangible personal property of a municipal solid waste disposal facility to be performed by the Department of Revenue in the same manner as real and tangible personal property of all other taxpayers under KRS Chapter 132 effective January 1, 2016, and each January 1 thereafter. In the case of tangible personal property certified as a pollution control facility that is incorporated into a landfill facility, the tangible personal property will be presumed to remain tangible personal property if used for its intended purpose.

The Department of Revenue will promulgate administrative regulations to implement a valuation methodology for municipal solid waste disposal facilities.

Municipal solid waste disposal facilities were previously taxed on their operating property pursuant to KRS 136.120 as a public service company.



### **SB 84** **VEHICLES OPERATED BY COLLECTION SERVICE**

Sponsor: Senator Ernie Harris (R-Prospect)

SB 84 amends KRS 189.450, which prohibits stopping or leaving a vehicle standing upon any portion of a highway. The bill provides an exemption for vehicles operated by a collection service registered in accordance with KRS 224.43-315 for the purpose of collecting and transporting solid waste, provided the vehicles are stopped for a period of not more than 15 minutes. The bill also provides an exemption for participants in the Adopt-a-Highway Program.

## UTILITIES

### **HB 261 WATER UTILITIES**

Sponsor: Representative Linda Belcher (D-Shepherdsville)

HB 261 amends KRS 278.020 to require the Public Service Commission (PSC), prior to granting a certificate of public convenience and necessity, to require an applicant for construction of a sewage collection, transmission or treatment facility to provide a surety bond or a reasonable guaranty that the applicant will operate the facilities in a reasonable and reliable manner for a period of at least five years. No surety bond or guaranty shall be required for an applicant that is a water district, water association or an applicant that the Commission finds has sufficient assets to ensure the continuity of sewage service.

The surety bond or guaranty must be in an amount sufficient to ensure the full and faithful performance by the applicant or its successors of requirements under KRS Chapter 278 and applicable state and federal environmental laws.

HB 261 additionally prohibits the transfer or control of a sewage collection, transmission or treatment facility unless the PSC finds the person or entity acquiring the utility has provided sufficient evidence of financial integrity to ensure the continuity of sewage service in the event that the acquirer cannot continue to provide service.

Operators of a sewage collection, transmission or treatment facility desiring to abandon a facility or cease providing services must file an application with the PSC requesting authority to abandon the facility or cease providing services. Prior to filing an application, the applicant must provide written notice of the filing to:

- ♦ Kentucky Division of Water;
- ♦ Office of the Attorney General; and
- ♦ The county judge/executive, mayor, health department, planning and zoning commission, and public sewage service provider of each county and each city in which the applicant provides sewage collection, transmission or treatment services.

The Commission must hold a hearing on an application requesting authority to abandon a sewage collection, transmission or treatment facility or cease providing services no earlier than 90 days from the date the application is accepted for filing unless the Commission finds it necessary for good cause to act earlier on the application. The Commission may grant or deny any application upon terms and conditions as the Commission deems necessary or appropriate.

An emergency is declared. HB 261 became law on April 8, 2016, when signed by the Governor.



## UTILITIES (CONT.)

### **HB 529 KENTUCKY WATER RESOURCES BOARD**

Sponsor: Representative Rick Rand (D-Bedford)

HB 529 creates a new section of KRS 151.100 to 151.460 to establish the Kentucky Water Resources Board attached to the Energy and Environment Cabinet to assist the Cabinet in developing and implementing water resources policy, including the following:

1. Develop a planning process for the development and management of water resources;
2. Develop recommendations to enhance the quality of water resources accessible for agricultural production in the state;
3. Research emerging water resources issues, including the adequacy of water supplies available in rural Kentucky;
4. Examine potential actions to address deficiencies in water supplies identified by the board; and
5. Make recommendations for developing new and reliable water sources for key areas of farm production in Kentucky.

The Board shall consist of 11 members including the following ex officio members:

1. Secretary of the Energy and Environment Cabinet to serve as chair;
2. Commissioner of the Kentucky Department of Agriculture to serve as vice chair; and
3. Dean of the University of Kentucky College of Agriculture, Food, and Environment.

Six members are appointed by the Governor as follows:

- ♦ One member selected from a list of three submitted by the Kentucky Association of Conservation Districts to serve an initial term of four years;
- ♦ One member selected from a list of three submitted by the Kentucky Chamber of Commerce to serve an initial term of four years;
- ♦ One member selected from a list of three submitted by the Kentucky County Judge/Executive Association to serve an initial term of three years;
- ♦ One member selected from a list of three submitted by the Kentucky Farm Bureau to serve an initial term of three years;
- ♦ One member selected from a list of three submitted by the Kentucky League of Cities to serve an initial term of two years; and
- ♦ One member from a list of three submitted by the Kentucky Rural Water Association to serve an initial term of two years.

## UTILITIES (CONT.)

The Board shall additionally have two nonvoting liaisons who are members of the General Assembly, one of whom shall be a member of the House of Representatives appointed by the Speaker of the House and one a member of the Senate appointed by the President of the Senate.

Following initial appointments, members appointed by the Governor will serve a term of four years. The Board will meet at the call of the chair.



### **SB 90 SITING OF CELLULAR ANTENNA TOWERS**

Sponsor: Senator Ernie Harris (R-Prospect)

SB 90 amends KRS 100.987 relating to the siting of cell towers to clarify that applications for approval of cell towers on property that is exempt from zoning regulations under KRS 100.161 shall be submitted to the Public Service Commission for approval under KRS 278.650, including property owned by any state agency or instrumentality or by any university electing to perform financial management of its real properties pursuant to KRS 164A.555 to 164A.610.



### **SB 141 BOARD MEMBERSHIP FOR MUNICIPAL UTILITIES**

Sponsor: Senator Danny Carroll (R-Paducah)

SB 141 amends KRS 96.530 and KRS 96.740 to allow one member of a city electric utility commission or a city electric plant board to be appointed who resides in a portion of the utility's service area that is not within the city if that portion contains 10 percent or more of the utility's customers and the member has been a customer of the utility for not less than one year.

# WORKERS' COMPENSATION



## **HCR 185 KENTUCKY WORKERS' COMPENSATION TASK FORCE**

Sponsor: Representative Rick Nelson (D-Middlesboro)

House Concurrent Resolution 185 directs the Legislative Research Commission to create a Kentucky Workers' Compensation Task Force to study and develop consensus recommendations concerning possible procedural and substantive changes to the workers' compensation system in Kentucky with particular focus on: (1) improving administration of the Kentucky workers' compensation system; and (2) improving the delivery of workers' compensation benefits to injured workers.

The task force shall be composed of 24 members, including representatives of both labor and management organizations as follows:

1. Two members of the Senate to be appointed by the President of the Senate, with one member being of the majority party to serve as co-chair and one member of the minority party;
2. Two members of the House of Representatives to be appointed by the Speaker of the House, with one member being of the majority party to serve as co-chair and one member of the minority party;
3. Five members of the Kentucky AFL-CIO;
4. Two representatives of the Kentucky Justice Association;
5. Two representatives of the Kentucky Workers' Association;
6. A representative of the Kentucky Chamber of Commerce;
7. A representative of the Kentucky Association of Manufacturers;
8. A representative of the National Federation of Independent Business/Kentucky;
9. A representative of the Kentucky Employers' Mutual Insurance Authority;
10. A representative of the Kentucky Retail Federation;
11. A representative of the Kentucky League of Cities;
12. A representative of the Kentucky Association of Counties;
13. A representative of self-insured employers in Kentucky to be selected jointly by the Kentucky League of Cities, Kentucky Association of Counties and Kentucky Chamber of Commerce;
14. A representative of Kentucky workers' compensation insurance carriers to be selected by the Commissioner of the Department of Insurance;
15. The Secretary of the Labor Cabinet as an ex officio member; and
16. The Commissioner of the Department of Workers' Claims as an ex officio member.

The Task Force shall meet a minimum of three times during the 2016 Interim of the General Assembly and submit a report to the Legislative Research Commission for referral to the

# **WORKERS' COMPENSATION (CONT.)**

appropriate committee or committees by December 1, 2016. The report shall include, at a minimum, a detailed analysis of the current workers' compensation system and recommendations for proposed legislation related to improving the current system for delivery of workers' compensation benefits to injured workers.





100 East Vine Street, Suite 800 ♦ Lexington, KY 40507 ♦ [klc.org](http://klc.org)