

## **2019 General Assembly Regular Session: Bills We're Watching: The 6<sup>th</sup> Edition**

This list profiles the environmental, conservation, consumer and general government bills that the Kentucky Resources Council is supporting, opposing, and tracking during the 2019 General Assembly Regular Session, complete through end of legislative day March 7, 2019. There are 4 remaining legislative days before adjournment *sine die* on March 28<sup>th</sup>.

With only 4 legislative days remaining, we have removed from the tracking sheet those bills for which we have not taken a position that have not yet been heard in the committee to which they were initially assigned. To read about those bills, please consult the 5<sup>th</sup> Edition of "Bills We're Watching."

This year is a "short" session, and began on January 8, 2018, with a scheduled adjournment of March 28. The General Assembly will not be in session on March 8 or March 11. They will meet March 12, 13, and 14. Beginning March 15 there is a "veto break" and they will reconvene on March 28 for the final day.

Feel free to forward this to anyone you feel might be interested, and to utilize, reprint or quote from the bill analyses. We ask only that you attribute KRC as the source when you use our analytical material (so we can take all the blame for anything we've gotten wrong!)

**DO YOU KNOW SOMEONE WHO WANTS TO RECEIVE THESE NOTICES OF THE POSTING OF THESE UPDATES?**

Send this to a friend and tell them to write us at [Fitz@kyrc.org](mailto:Fitz@kyrc.org) if they want to receive notice when these postings are updated.

**WANT TO READ THE BILLS OR CONTACT LEGISLATORS?**

For a copy of any bill, visit the Legislature's 2019 Session page at <http://www.lrc.ky.gov>

To find your legislators email, go to <http://www.lrc.ky.gov/whoswho/email.htm>

The phone number to reach a legislator in person is 502-564-8100 (this is not toll-free).

The toll-free meeting schedule information line is 1-800-633-9650.

The toll-free message line is 1-800-372-7181, to leave a message for a legislator or an entire committee. The TTY message line is 1-800-896-0305. En Espanol, el nombre es 1-866-840-6574. The toll-free bill status number is 1-866-840-2835.

Please note that the Council *does not* have a position on each bill listed. Some bills are tracked for general interest; others simply to assure that they do not become vehicles for mischievous amendments. We have formatted this update to highlight in the first section, those bills on which KRC has taken a position. Where KRC has taken a position concerning a bill it is indicated with a plus (+) or minus (-). The primary sponsor and current status of the bill are also noted by Committee or chamber.

Here's the key to understanding where a bill is in the process:

H. State Govt = House State Government Committee

H. Ed = House Education Committee

H. Tourism = House Tourism and Outdoor Recreation Committee

H. Elections= House Elections, Constitutional Amendments and Intergovernmental Affairs Committee

H. Veterans= House Veterans, Military Affairs and Public Safety Committee

H. Judiciary = House Judiciary Committee

H. A&R = House Appropriations and Revenue Committee

H. Eco Dev = House Economic Development & Workforce Investment Committee

H. Ag = House Agriculture

H. Sm Bus = House Small Business and Information Technology Committee

H. Local Govt = House Local Government Committee

H. Transp = House Transportation Committee

H. H&FS = House Health and Family Services Committee

H. L&O = House Licensing, Occupations And Adm. Regulations Committee

H. Nat Res Energy = House Natural Resources and Energy Committee

H. B&I = House Banking and Insurance Committee

H. L&I = House Labor and Industry Committee

H. Rules = House Rules Committee

S. State Local Govt = Senate State and Local Government Committee

S. NR Energy = Senate Natural Resources and Energy Committee

S. Ag = Senate Agriculture Committee

4444444444444444S. Judiciary = Senate Judiciary Committee

S. Eco Dev = Senate Economic Development, Tourism and Labor Committee

S. Ed = Senate Education Committee

S. H&W = Senate Health and Welfare Committee

S. L&O = Senate Licensing, Occupations and Administrative Regulations  
Committee

S. Veterans = Senate Veterans, Military Affairs, and Public Protection Committee

S. B&I = Senate Banking and Insurance Committee

S. Transp = Senate Transportation

S. Rules = Senate Rules Committee

## **BILLS AND RESOLUTIONS FOR WHICH KRC HAS TAKEN A POSITION**

### **House Bills**

HB 4 (Upchurch and others)(S. State Local Govt)(-)

Would make changes to administrative regulation process to require, among other things, an annual report on administrative regulations found deficient by a legislative committee; would make an emergency administrative regulation expire after 240 days and allow extension; allow a committee to take action on an administrative regulation within 90 days of LRC referral; permit an administrative regulation to transfer between standing committees and an interim joint committee or vice versa if a session of the General Assembly occurs during part of the 90-day review period.

The number of regulations found deficient and put into effect notwithstanding is negligible on an annual basis (in many years, there are none. Requiring an annual report from the administrative regulation staff only increases their workload for no benefit. Additionally, extending the review period to 90 days delays effective dates of new and revised regulations without justification, since for all months

but December the committees meet monthly and can review the regulations in a period far shorter than 90 days.

HB 9 (Hatton)(H. Sm Bus)(+)

Would require that contracts between the Kentucky Communications Network Authority and internet providers contain provisions to assure net neutrality and open and fair access.

HB 10 (Dossett)(H. Transp)(-)

Would greatly expand the use of electronic billboard devices on any property advertising on and off-premise products and activities.

HB 11 (Moser)(H. Rules)(+)

Would prohibit use of tobacco products by any person in schools, school vehicles, and properties by 2020-2021 school year.

HB 16 (Harris and Hatton)(H. NR Energy)(+)

Would amend Public Service Commission statutes regarding utility customer charges and would include affordability as a criterion in determining whether rates are fair, just, and reasonable.

HB 27 (Keene)(H A&R)(+)

Would exempt nonprofits from sales and use tax for events. One of several bills that hopefully will be combined, to remove sales and use tax from non-profit entities.

HB 28 (Osborne and numerous others)(H A&R)(+)

Would revise sales and use tax to exempt admissions to nonprofits from taxation.

HB 30 (Goforth)(H. Judiciary)(-)

Would modify firearms law to allow any person with a concealed weapon license to carry the weapon at all times, including courthouses (but not courtrooms), government meetings, school facilities, childcare centers, and would eliminate the ability of a business owner to prohibit carrying weapons on the premises.

HB 33 (Harris)(H NR Energy)(+)

Would require that miners wear clothing with at least 100 square inches of reflective material while in an underground mine and clothing with at least 50 square inches of reflective material at a surface mine site and require that coal operators provide the reflective clothing at no cost to the miner.

HB 35 (Goforth)(H. Elections)(+)

Proposed constitutional amendment to eliminate the Office of Judge of County Court in urban-county governments.

HB 36 (Bratcher and others)(H. Judiciary)(+)(posted)

Would provide civil immunity for damage to a vehicle if a person enters with reasonable good faith belief that a dog or cat is in immediate danger of death if not removed. Similar to SB 12 (D. Carroll).

HB 47 (Cantrell and Jenkins)(H EcoDev)(+)

Would establish rules requiring employers to provide earned paid sick leave to employees.

HB 48 (Cantrell and Jenkins)(H. EcoDev)(+)

Would require employers with 50 or more employees to provide six weeks of paid maternity leave for an employee who has been employed for at least one year; allow an employee to waive the paid maternity leave.

HB 52 (Donohue)(H. EcoDev)(+)

Would require approved companies receiving economic development monies to pay minimum wage and benefits.

HB 59 (Huff)(H. Transp)(+)

Would modify crime of criminal littering to include dropping unsafe amounts of mowed grass on public highways without removing it.

HB 60 (Moser)(To Senate)

Would prohibit harassment or sexual harassment by legislators or lobbyists of legislative branch employees; establish tip line; provide for investigation of complaints received.

HB 62 (Dossett and numerous others)(S. A&R)(+)

Would allow taxpayers to voluntarily provide donation for YMCA Youth Assembly programs on tax returns.

HB 75 (Hatton and others)(H. EcoDev)(+)

Would eliminate the requirement that physicians contracting with the commissioner to perform evaluations in occupational disease claims be "B" readers who are licensed in Kentucky and are board-certified pulmonary specialists, and would allow the commissioner to select a physician or medical facility for referral in occupational disease claims. This would broaden the availability of qualified physicians and clinics for reviewing black lung claims.

HB 76 (Brown)(H. Judiciary)(+)

Would amend existing firearms laws to require safe storage, prohibit manufacture of bump stocks, require judges in protection orders to consider whether to limit firearm possession, and make other reforms in access to firearm and ammunition sales.

HB 77 (Meeks)(H. Judiciary)(+)

Would criminalize the possession of a firearm made using additive manufacturing (3D printing) for anyone under age 21 and for anyone who does not permanently

engrave or attach serial numbers and authorize state police to issue serial numbers for firearms made with additive manufacturing.

HB 78 (Elliott)(H. A&R)(+)

Would exempt from sales and use tax pet adoption fees and certain small veterinarian service fees charge by government and nonprofit animal welfare shelters.

HB 81 (Miller)(S. State Local Govt)(+)

Would revise and broaden scope of definitions of “officer” and “public servant” for purposes of executive branch ethics code. House Floor Amendment would add a requirement that candidates for statewide office disclose last 3 years of tax returns before their names could be placed on the ballot.

HB 83 (Flood)(H. State Govt)(+)

Would define ethical misconduct to include sexual harassment by a legislator, legislative agent, or employee of the legislative branch.

HB 88 (Moser)(H. Ed)(+)

Would establish a goal of increasing time for physical activity in schools and process for reporting and tracking and sharing data on physical activity in schools.

HB 91 (Brown, Booker)(H. Elections)(+)

Proposed constitutional amendment to restructure voting restrictions relating to felons and persons with mental disabilities.

HB 97 (Hart)(H. State Govt)(posted)(-)

Would allow local governments to exempt water systems from fluoridation requirements. Community water fluoridation is endorsed by the Centers for Disease Control and the World Health Organization, and has been identified as

the most cost-effective method of delivering fluoride to all members of a community regardless of age, educational attainment, or income.

No convincing scientific evidence has been found to link community water fluoridation to any potential adverse health effect or systemic disorder such as cancer, Down syndrome, heart disease, osteoporosis, and other disorders.

HB 117 (McCoy and Huff)(H. Transp)(+)

Would include, as criminal littering, permitting unsafe amounts of mowed grass to remain on a highway.

HB 122 (Donohue, Cantrell)(H. A&R)(+)

Would create an income tax credit for expenditures made to mitigate noise from a commercial airport.

HB 123 (Dossett)(H Elections)(posted)(-)

Proposed constitutional amendment to allow judges to be elected on a partisan basis.

HB 127 (Meeks)(H. Elections)(+)

Proposed constitutional amendment would lower minimum age for state senators from 30 to 24 to match that of state representatives.

HB 128 (Meeks)(H. State Govt)(posted)(+)

Would prohibit the sale or display of items related to racist ideology or items produced since World War II denoting swastikas or Nazi-related logos on state property.

HB 146 (Meeks)(H. NR Energy)(+)

Would broaden net metering to allow participating third parties and power purchase agreements in the definition of "eligible customer-generator" and



"eligible electric generating facility" and to exclude both from the rated capacity limitation. This would broaden availability of solar energy to individuals lacking the capital to purchase and install systems, and facilitate leasing of systems by third parties.

HB 157 (Clark)(H. Judiciary)(+)

Would amend law to include assistance animals in the definition of "service animals" that are covered by assault on a service animal in the first degree.

HB 164 (Marzian and others)(H. Judiciary)(+)

Would prohibit discrimination in housing, employment, and public accommodation based on sexual orientation or gender identity.

HB 165 (Gooch)(To Governor)(+)

Would more equitably distribute the agency workload costs for air pollution control programs by allowing the Energy and Environment Cabinet or Metro Louisville Air Pollution Control District to establish an air quality fee structure that may include a permit or registration fee in addition to the collection of a per-ton emissions-based assessment. The bulk of current funding is derived solely from emission fees on major sources; this change would more equitably spread the cost of the air pollution programs to include smaller permitted sources of air pollution whose permitting and compliance evaluation are part of the agency workload.

HB 183 (Marzian)(H. NR Energy)(posted)(+)

Would prohibit the intentional release of more than 25 plastic balloons; establish a ban on plastic, single-use carryout bags by July 1, 2024; establish a ban the provision of single-use plastic straws by retail food and beverage establishments by July 1, 2022.

HB 199 (Gooch)(To Governor)(+)

Consensus bill from oil and gas workgroup increasing bonding requirements for oil and gas wells, creating civil penalties for violations, and creating program and fund for reclamation of abandoned oil and gas wells.

HB 213 (Marzian)(H. Eco Dev)(+)

Would create portfolio requirement for PSC-regulated retail electric suppliers to use increasing amounts of renewable energy; require retail electric suppliers to take energy-efficiency measures and implement energy-efficiency programs that increase energy savings over a period of time.

HB 222 (Maddox, Pratt, Hart)(H. NR Energy)(+)(posted)

Would require Energy and Environment cabinet to make quarterly reports to the solid waste coordinator for a solid waste management area on complaints, investigations, and actions relating to solid waste management within the area.

HB 247 (Sorolis)(H. Elections)(+)

Would extend voting hours from 6 a.m., prevailing time, to 7 p.m., prevailing time, in those counties with a population of 90,000 or more.

HB 252 (Hart, Gooch)(H. Local Govt)(posted)(-)

Would permit municipal utilities to join together to buy and sell electricity and natural gas; specify elements of an agreement to create a municipal electric authority; determine what powers an authority will have, including the power to undertake projects, bonding, and other borrowing power; specify limits to financial transactions.

The main concern with the bill is the lack of notice to the public and opportunity to be heard, and any external accountability, on critical decisions affecting their municipalities concerning participation in the “Municipal Electric Authority,” capital projects and power purchase agreements. Ratepayers in these municipalities should have a voice and there should be accountability to ratepayers for key decisions of the municipal electric authority. These concerns could be addressed by these changes in the bill:

- Require public notice and opportunity to be heard by any municipality prior to that municipality becoming a member of Municipal Electric Authority.
- Require the Municipal Electric Authority to develop and periodically update an Integrated Resource Plan and provide public notice an opportunity to be heard prior to adoption by the Municipal Electric Authority.
- Require public notice and an opportunity to be heard prior to the Municipal Electric Authority entering into an of the contracts listed in Section 4(1).
- Require that construction of any plant, equipment, property, or facility for furnishing electric service be required to obtain a Certificate of Public Convenience and Necessity from the Public Service Commission.
- Require unanimous approval by Municipal Electric Authority members for any contracts, bond issues, and capital projects that affect or financially obligate those members.
- Limit the references to natural gas to gas utilized for generation of electricity. While “project” references natural gas transmission, storage, or management solely in the context of generation of electricity, numerous sections of the bill read more broadly. Revising the bill to refer to and limit the authority of the Electric Authority to natural gas for the purpose of providing electricity would address this concern.

HB 253 (Sorolis)(H. Elections)(+)

Would allow in-person early voting between 9 a.m. and 4 p.m. on the three Saturdays preceding any primary, regular election, or special election.

HB 276 (Nemes)(H. A&R)(+)

Would extend the voluntary environmental remediation tax credit for taxable years beginning on or after January 1, 2019, but before January 1, 2023, and to allow a refundable credit for these taxable years for projects where the remediation will cost 10 million or more dollars, and the total investment in the property exceeds 30 million dollars.

HB 280 (Huff)(S. H&W)

Directs the Transportation Cabinet to include a requirement for bicycle helmets for operators and passengers under the age of 12 in the bicycle standards and safety administrative regulations.

HB 364 (Sorolis)(H. Elections)(+)

Would provide that each application for a motor vehicle driver's license shall be a simultaneous application for voter registration unless declined by the applicant.

HB 367 (Donohue and Graviss)(H. State Govt)(+)

Would require that 90 days before the sale or transfer of any state-owned property that has been nominated by the Kentucky Preservation Review Board to the National Register of Historic Places, the Finance and Administration Cabinet will notify the Kentucky Heritage Council and engage in consultation with the Council as to whether the historic, cultural, or archaeological resources present on the property should be subject to a preservation easement prior to sale or transfer. If the Heritage Council recommends an easement, one must be placed on the property prior to sale or transfer.

HB 372 (Booker)(H. Elections)(+)

Would establish that in-person absentee voting be conducted at least 12 working days, including two Saturdays, before the Sunday prior to election day and to permit a county board of elections to establish a longer period of time for in-person absentee voting.

HB 407 (Prunty)(H. A&R)(+)

Would create a tax credit for expenses incurred up to \$7,500 each year, for home modifications to make homes accessible to persons with disabilities.

HB 420 (Bowling)(S. H&W)(-)

Would revise laws governing radon contractor certification. House Committee Substitute added language requiring the Cabinet to deny public access to records regarding regarding records of radon measurement, mitigation, quality control

program plans, calibration certifications, laboratory analysis activities, worker health and safety plans, and equipment repairs, except for "records made available to owners or occupants of a building."

Radon, an odorless and colorless radioactive gas that forms naturally when uranium, thorium, or radium breaks down in rocks, soil and groundwater, is the second leading cause of lung cancer after cigarette smoking. The US EPA and Surgeon General's office estimate that radon is responsible for more than 20,000 lung cancer death each year, due to infiltration of the gas into occupied dwellings.

The provision of the House Committee Substitute preventing the Cabinet from disclosing this critical information deprives potential home buyers of important information regarding whether a home that they intend to purchase or rent has been tested and or treated for elevated levels of radon. Within any zip code, the geology of an area can change significantly, so that allowing the release of aggregated data by zip code, which House Floor Amendment 1 would allow, is not helpful to an individual planning on purchasing a home who is justifiably concerned with the possibility that radon levels within the home are elevated. The Council questions why the General Assembly would want to require the Cabinet to deny public access to information regarding radon gas measurement and treatment, at the time that the information is most valuable to a potential purchaser or renter, and before they potentially place themselves and family at elevated risk of lung cancer.

HB 420 should be opposed until the open records disclosure exemption is removed from the bill, in order that the public not be deprived of important public health information when seeking to rent or purchase a family home.

HB 432 (Sorolis)(H. State Govt)(+)

Would provide a definition of "emergency legislation" in order to address "proliferation" of emergency legislation that fails to allow for adequate public notice and opportunity to prepare for the changes in law that regular enactment of a bill would provide.

HB 434 (Sorolis)(H. State Govt)(+)

Would require contractors to disclose entities having an interest in their contract with the state.

HB 437 (Prunty)(H. Judiciary)(-)

Would provide that in when there is no written contract, or a tenancy at will or by sufferance, the landlord may terminate the tenancy giving seven days' notice.

HB 448 (Jenkins)(H. Elections)(+)

Proposed constitutional amendment would require that all bills be made available to the public for at least twenty-four hours before a vote for final passage by the General Assembly beginning with the legislative session of 2021.

HB 451 (Booker)(H. Elections)(+)

Proposed constitutional amendment would require prior to final passage that a bill be available to the public for 24 hours.

HB 462 (Kulkarni and Bojanowski)(H. Judiciary)(+)

Would make possession of a firearm by a convicted domestic abuser or a person subject to a domestic violence protective order, a Class C felony.

HB 463 (Harris)(H. Judiciary)(+)

Would make possession of an assault weapon by a person less than 21 years old a misdemeanor offense, excepting law enforcement and military.

HB 464 (Booker)(H. Elections)(+)

Proposed constitutional amendment would require prior to final passage that a bill be available to the public for 24 hours, effective beginning in 2021.

HB 488 (Bridges)(H. A&R)(+)

Would provide an affordable housing credit against state income and insurance premium taxes for qualified investments in elder housing, workforce housing, and supportive housing projects.

HB 517 (Santoro and others)(H. Transp, reassigned to H. A&R)(-)(posted)

Bill raising numerous fees and gas tax rates in order to fund transportation infrastructure projects. KRC supports user-based funding of transportation infrastructure, but opposes as excessive the proposed \$175.00 annual fee on fully-electric vehicles, as well as the regressive "highway preservation fee" that increases from \$5.00 a year for cars rated at 0-5 MPG to \$20 per year for cars rated at 30 mpg or more.

The proposed fee for all-electric vehicles is significantly higher than what a non-electric car would pay in annual gas taxes, and disincentivizes the technology. KRC supports a proportional fee that takes into account the taxes already being paid by electric vehicle owners on the electric utilities, and which imposes transportation funding fees based on car weight.

### **House Resolutions**

HCR 56 (Tipton, Harris, Blanton)(S. State Local Govt)(+)

Concurrent resolution establishing a legislative task force to study community public drinking water and wastewater systems to create mechanisms for oversight and intervention so as to prevent the drinking system's decline and failure. KRC would have a seat on the 21-person task force.

HJR 71 (Gooch)(H. NR Energy)(posted)(+)

Direct the Energy and Environment Cabinet to create a task force to study the funding of water infrastructure projects in communities that lack traditional funding sources.

HJR 87 (Miller)(H. Elections)(-)

Joint resolution applying for an Article V convention to propose amendments to the Constitution of the United States that impose fiscal restraints, and limit the power and jurisdiction of the federal government, and requesting Congress to similarly propose such amendments. Scholars generally concur that a “limited” constitutional convention cannot be so limited, and that all of the constitutional provisions would open to amendment in such an instance.

HR 108 (Harris)(Adopted)(+)

Simple resolution urging Governor Matthew Bevin to declare a state of emergency in Martin County, Kentucky, and to make emergency funds available to resolve the county's water crisis.

HCR 127 (Jenkins and others)(H. State Govt)(+)

Concurrent resolution would establish a task force to study gender issues and gender bias in state government.

HCR 132 (Donohue)(H. Transp)(+)

Concurrent resolution calling for LRC study of possibility of establishing a passenger light rail system from Louisville to Lexington, Louisville to Northern Kentucky, and Northern Kentucky to Lexington.

## **Senate Bills**

SB 2 (Stivers)(H. Judiciary)(-)(posted)

Original bill would allow for petitioning for appointment by Chief Justice, or a special judge in any constitutional challenge or other civil action seeking declaratory or injunctive relief regarding legislative or agency action filed in a Circuit Court, at the election of the defendant. Bill likely violates Section 110 of the Kentucky Constitution, which confers on the Chief Justice the decision on when a special judge should be assigned, and not the Executive or Legislative Branches of government.



Senate Committee Substitute eliminates original language and instead allows for petitioning for a random lottery draw change of venue in any constitutional challenge or other civil action seeking declaratory or injunctive relief regarding legislative or agency action filed in a Circuit Court, at the election of the defendant. The bill lacks any standards, and likely is “arbitrary” action in violation of Ky. Const. Section 2. It is also likely special legislation, in violation of Section 59 of the Kentucky Constitution, which specifically prohibits at Section 59(3), which prohibits the passage of local or special acts “to provide for changes of venue in civil or criminal causes.”

Bill is aimed directly at the Franklin Circuit Court, which is the venue for the bulk of such challenges and would negate the effect of the experience of the two Circuit Judges in addressing matters affecting executive and legislative branches of government.

SB 6 (Stivers, Thayer)(H. Rules)(+)

Original bill would amend existing law to require disclosure of executive agency lobbyist compensation, and to prohibit executive agency lobbyist compensation contingent on awarding of a government contract or based on a percentage of a government contract awarded. Senate Committee Substitute is overbroad and would require registration as an executive agency lobbyist for anyone who on behalf of their employer files a public comment on an agency regulation or who communicates with the agency or the Governor’s office regarding legislation.

At the request of KRC, the sponsor agreed to revise the language in House Committee Substitute to narrow the language so that communications on laws and regulations with executive branch agencies by individuals who do not have a financial interest in the law or regulation, do not constitute executive branch lobbying. Also, comments made during a comment period on a regulation do not constitute executive branch lobbying. KRC appreciates Senator Stivers agreeing to make the requested changes.

SB 11 (Alvarado)(S. State Local Govt)(-)

Proposed constitutional amendment allowing General Assembly to place cap on recovery of non-economic damages for injuries to person or property.

SB 12 (D. Carroll)(H. Judiciary)(+)

Would provide civil immunity for damaging a vehicle if a person enters the vehicle with the reasonable, good-faith belief that a dog or cat is in immediate danger of death if not removed.

SB 16 (Adams)(To Governor)(+)

Would establish the Kentucky Rare Disease Advisory Council and create a rare disease trust fund to be administered by the Cabinet for Health and Family Services to finance the operation of the council and support rare disease research and treatment.

SB 17 (J. Adams)(S. Rules, recommitted to S. Judiciary)(+)

Would include diagnosis of serious mental illness as a disability preventing execution for capital offenses.

SB 27 (Alvarado)(S. Ed)(+)

Would prohibit use of tobacco products by any person in schools, school vehicles, and properties by 2020-2021 school year.

SB 28 (Alvarado)(H. Rules)(consent)(+)

Would require the Energy and Environment Cabinet to send a copy of a notice of violation for a hazardous waste site or facility to the county/judge executive of the county or the chief executive officer of the urban-county government within which the site or facility is located. Committee Substitute modifies bill to include all notices of violation for solid waste landfills. A House committee amendment that the Council negotiated with solid waste industry representatives narrows the scope slightly so that notices of violation for violations that have off-site impacts will be sent to the County officials.

SB 32 (Humphries)(To Governor)

Would create an application and certificate process for water well driller assistants.

SB 45 (Neal)(S. Judiciary)(+)

Would require racial and ethnic community criminal justice and public safety impact statements for administrative regulations and certain other legislation.

SB 47 (Neal)(S. Veterans)(+)

Would prohibit unlawful storage of a firearm.

SB 51 (Thomas and Neal)(S. A&R)(+)

Would gradually increase minimum wage for employees of retail stores and service industries with minimum of \$500,000 average annual gross volume of sales for the employer from 8.20 per hour to 15.00 per hour in 2026, and similarly raise minimum for tipped employees; would allow local governments to establish minimum wages higher than state law.

SB 52 (Thomas)(S. State Local Govt)(+)

Would require witnesses before legislative committees to swear an oath prior to giving testimony.

SB 59 (Schickel, Embry, Wilson)(S. A&R)(+)

Would exempt from sales and use tax the sale of admissions by nonprofit educational, charitable, or religious institutions, and to exempt from sales and use tax the fundraising activities done by nonprofit educational, charitable, or religious institutions.

SB 63 (Thomas, Neal)(S. State Local Govt)(+)

Would allow in-person early voting between 8 a.m. and 6 p.m. on the three Saturdays preceding any primary, regular election, or special election and extend voting hours for election day voting from 6 a.m. to 8 p.m.

SB 67 (Adams, Thayer)(H. Rules)

Would create a offense of sex crimes against “any nonhuman creature,” with exceptions for veterinary and animal husbandry practices, allow animal control officers to enforce law and to provide for court termination of ownership of animal.

SB 87 (Higdon)(S. State Local Govt)(+)

Proposed constitutional amendment would require each amended legislative bill, which is materially altered or wholly changed in substance, to be read anew at length on three different days in each House beginning with the legislative session in the year 2021.

SB 89 (Alvarado)(H. Rules)(consent)(+)

Would allow a local government to provide by ordinance for the abatement and decontamination of any property where a methamphetamine contamination notice has been posted, and require notice and hearing prior to the decontamination of any property where a methamphetamine contamination notice has been posted; provide that a local government may place a lien on the property for costs related to the enforcement of the ordinance and decontamination of the property; and to specify that a lien for the costs qualifies as a lien for which a sale may be ordered when the property is determined to be abandoned.

At the request of KRC, the sponsor agreed to revise the bill to provide an *opportunity* to request a hearing rather than automatic hearing prior to decontamination, and to limit the right to hearing to 30 days after receiving notice.

SB 100 (Smith)(To House for Receding in House Floor Amendment)(+)

Original bill was a utility-crafted bill intended to end net metering of electricity. For new customers seeking to install rooftop solar, the Public Service Commission would set the rate at which electricity flowing into the grid would be credited, and would be entitled to set rates for net metering customers discriminatorily,

imposing rates designed to recover from those customers 100% of fixed and demand-based costs, increasing significantly the cost of electricity to net metering customers over when similarly-situated residential customers without rooftop solar would pay.

House Floor Amendment 1 (Duplessis) addressed most of the concerns with the original bill. The bill, as passed the House, does these things:

- Section 1(2)(c) allows leasing of systems to third parties without violating the “territorial” monopoly of the utilities, which helps address those situations where customers cannot afford the capital costs of installing systems.
- The amendment opens the door for one, rather than multiple, cases before the PSC to set the rate at which net metering customers will be credited for fed-in solar. It also provides that the Kentucky Solar Industry Association or other organization of retail installers shall have intervention rights – no small matter where the current PSC has singled out low-income advocates and excluded them from participating in rate cases.
- Allows the PSC to determine the interval, up to a month, where the electricity used and fed in to the system is “netted.” The industry bill, SB 100, makes it instantaneous, thus devaluing all solar rather than excess solar.
- Requires that in setting rates for solar customers, the PSC consider a list of identified benefits of solar.
- Adopts the clear grandfathering language in SB 100 crafted by KRC, and additionally provides a 10-year grandfather for anyone taking service before 2024.

The one remaining problem not addressed by Amendment 1, is that the bill still includes language in Section 1(4) defining net metering in terms of “dollar value” rather than kilowatt-hour credits, opening the possibility that utilities will argue that net meterers are “small qualifying facilities” under federal law and can only be compensated at the “avoided cost,” regardless of the real value of the solar electricity.

KRC encourages the House not to recede on the House-passed floor amendment to the Senate bill as a more fair and equitable balancing of utility and ratepayer interests.

SB 101 (Wilson)(S. Judiciary)(+)

Would expand cruelty to animals in the second degree to include causing any animals to fight or killing any animal by poisoning.

SB 104 (R. Mills)(H. Rules)(consent)(+)

Would ban use of firefighting agents containing perfluoroalkyl and polyfluoroalkyl substances beginning on July 15, 2020.

SB 124 (Hornback)(H. Rules)(consent)(+)

Cabinet bill amending several conservation statutes to update references and extend review times for proposed agricultural district creation. Confirms executive order 2018-601.

SB 129 (Hornback)(S. Rules, recommitted to S. NR Energy)(+)

Comprehensive bill on underground facility protection would require operators of underground facilities located in Kentucky to be members of the Kentucky Contact Center; establish a phase-in period for mandatory membership; waive the rights of nonmember operators of the Kentucky Contact Center for damage to their underground facilities after December 31, 2023; require operators to update the positive response system documenting the status of marking the approximate location of its underground facilities; require excavators to confirm status of locate request in the positive response system.

SB 133 (Adams)(S. H&W)(+)

Would require entering students enrolling in postsecondary institutions and residing on-campus to provide documentation of receiving required immunizations beginning with the 2020-21 academic year, and provide for exemptions.

SB 134 (Adams, Thayer, McGarvey)(S. State Local Govt)(+)

Would extend voting hours to 6 a.m. prevailing time, to 8 p.m. prevailing time.

SB 144 (Adams)(S. Transp)(+)

Would direct Transportation Cabinet to include a requirement for bicycle helmets for operators and passengers under the age of 12 in the bicycle standards and safety administrative regulations.

SB 151 (Buford)(S. NR Energy)(+)

Would require each marine vessel owner to keep a record of the dates and times that the vessel utilized a sewage pumpout facility and require the Department of Fish and Wildlife Resources, once every 24 months, to conduct inspections of marine sanitation devices on each vessel that has a marine toilet; would increase penalties for violations of law.

SB 163 (Carpenter)(S. Rules)(-)

Would allow Kentucky American Water Company and any other investor-owned water or sewer utility, to seek to recover the "fair market value" of water or sewer systems that it acquires, rather than the depreciated book value of those systems. Evidence from other states indicates the result, if approved by the Public Service Commission, will be over-valuation of the acquired assets and increased rates to both the current and new ratepayers.

Several years ago, Kentucky American sought and received approval to build an additional water treatment plant on the Kentucky River, based on projected water demand that greatly exceeded what the actual demand has been. The result is that Lexington customers have been paying the costs of an investment not needed to serve their water needs.

The prevailing regulatory standard for valuing a utility asset is the original cost less the depreciation on the asset. A second method is that of the reconstruction or replacement cost for the utility asset to be acquired.

The method proposed in this bill would be based on the "fair market value" based on appraisal "comparables," which is theoretical since there is no "market" for the sale of municipal utilities. Such a theoretical value would likely diverge upwards from the book value – original cost of the assets net of depreciation.

What does that mean for the ratepayers of KAWC? If approved, since the municipal system would be included in the unitary tariff for KAWC, rather than paying simply for the operation and maintenance of the existing system, the former municipal customers would be paying again for the same system by paying a portion of the costs of the system acquisition and KAWC's return on the investment – in effect paying twice for the former municipal system. And KAWC's existing customers? They would be paying a portion of that acquisition cost and KAWC's return on the investment, on top of paying the costs and profit on the unneeded water treatment plant that would now be serving the former municipal customers.

There is no need for this bill, since the Public Service Commission has already indicated in the case of the Delta Gas acquisition of Gas Service Company, that under the appropriate conditions the Commission will entertain cost recovery at higher than the book value. The Delta Order lays out these considerations:

This Commission has concluded that plant acquisition adjustments should not be denied as a matter of rigid rate-making policy but that each instance should be evaluated on its own merits and, if it is demonstrated that the acquisition at a cost above book value is in the public interest, the utility should be allowed to recover its investment. The Commission maintains its position that the net original cost of plant devoted to utility use is the fair value for rate-making purposes, unless the utility can prove, with conclusive evidence, that the overall operations and financial condition of the utility have benefited from acquisitions at prices in excess of net book value. The burden of proof is upon the utility to justify its investment at the price in excess of net original cost based on economic and quality of service criteria. In order to meet this burden of proof, evidence must be submitted that shows that the purchase price was established upon arms-length negotiations, the initial investment plus the cost of



restoring the facilities to required standards will not adversely impact the overall costs and rates of the existing and new customers, operational economies can be achieved through the acquisition, the purchase price of utility and non-utility property can be clearly identified, and the purchase will result in overall benefits in the financial and service aspects of the utility's operations.

*In the Matter of: An Adjustment Of Rates Of Delta Natural Gas Company, Case No. 9059, September 11, 1985.*

Nothing in current law prevents a utility from proposing a fair market value approach to valuation, provided it can meet the *Delta* standards, so that the bill is not needed. If the bill moves forward, three critical changes are needed in the bill. First, it must be made clearer that the Commission is **not** obligated to accept the valuation approach proposed by the utility. Second, the Delta standards must be incorporated into the statute in order to protect ratepayers. Finally, the Commission's jurisdiction under the entire Chapter 278 must be recognized as being unaffected, rather than just KRS 278.040.

SB 166 (McGarvey and others)(S. Judiciary)(+)

Would extend protections against discrimination to include gender identity and sexual orientation.

SB 207 (McGarvey, Westerfield)(S. Judiciary)(+)

Would provide an enhanced term of imprisonment for any defendant convicted of certain crimes when he or she intentionally selected the person because of that person's actual or perceived race, color, ethnicity, national origin, religion, mental or physical disability, gender identity or expression, or sexual orientation.

SB 209 (McGarvey)(S. State Local Govt)(+)

Would clarify powers of certain cities within a consolidated local government in regard to home rule powers and planning and zoning.

SB 211 (McGarvey)(S. Judiciary)(+)

Would allow discretionary expungement of certain Class D or Class C felonies with a waiting period of up to ten years.

SB 213 (West)(S. L&O)(+)

Would extend the deadline for expiration of older ordinary administrative regulations outside the certification process to March 1, 2020.

SB 217 (Stivers)(S. Judiciary)(-)

Would amend KRS Chapter 13B, which governs hearings before many administrative bodies. Bill reverses the *Chevron* doctrine that accords deference to agency interpretations of their statutes and regulations when the statute does not specifically address the issue in controversy. As drafted, the bill would apply to **all** agency hearings, even those for agencies like the Energy and Environment Cabinet that are otherwise exempted from Chapter 13B.

Bill raises serious separation of powers issues under the Kentucky Constitution, by attempting to direct how courts of justice review statutory and regulatory interpretation issues.

SB 229 (Mills)(S. State Local Govt)(+)

Would create process for local government petition to place blighted and abandoned properties into conservatorship to take possession and rehabilitate the property.

SB 230 (Schroder)(H. Rules)(+)

Would allow application for inspection of records under Open Records Act to be by email and fax, which is the practice of many agencies today.

SB 236 (Smith)(H. NR Energy)(+)

Would require Energy and Environment Cabinet to create a web and mobile app to allow anonymous reporting of litterers.

SB 251 (McGarvey)(S. State Local Govt)

Would expand opportunities for in-person absentee voting.

SB 255 (Smith)(S. NR Energy)(-)

Would allow the Public Service Commission to create “alternative regulatory methods” for allowing utilities to seek review and upward adjustment of their cost recovery **outside** of rate cases. Expands greatly the already troublesome concept of environmental surcharge cases, which don’t open all of the utility books to scrutiny when seeking to recover costs and a rate of return.

The process of a full rate case is well-established and should not be bypassed by creating “alternative” methods by which utilities can seek, short of a full rate case, to raise ratepayer rates.

This bill is problematic for ratepayers for many reasons:

- It will lead to annual rate making for utilities
- It provides no incentives for utilities to spend wisely because of true-ups to actual costs
- Radically shifts the ratemaking process used for the past 60-70 years in Ky, in particular by guaranteeing a rate of return instead of providing the opportunity to do so
- It removes Commission discretion in setting rates
- It forecloses on any meaningful involvement by consumers or intervenors. There will be no time for real discovery and definitely not for others to provide evidence, let alone a hearing
- It adds more work for the Commission at a time they have the least resources
- It gives utility a second bite at the apple within the same case, even though they can have a new one in a year
- Allows utilities to earn a return on capital put in for economic development reasons but not necessary or useful. This would allow for utilities to over

build or prospect under the guise of economic development but have no risk in doing so. Under the bill as written a utility could build a spec industrial park and the commission would have to let them recover it.

## **Senate Resolutions**

SCR 81 (Webb)(H. Local Govt)(+)(posted)

A concurrent resolution to establish a 21-member legislative task force to study community public drinking water and wastewater systems to identify and recommend mechanisms for oversight and intervention to prevent the drinking system's decline and failure. KRC is one of the named members to the task force.

SR 82 (Webb)(+)

Simple resolution of support for the Kentucky Public Service Commission and the Energy and Environment Cabinet to work to find solutions to the various problems faced by the Martin County Water District and support a review of the progress made to implement the 20/20 water plan.

SJR 102 (Hornback and others)(-)

Would apply to Congress under the provisions of Article V of the Constitution of the United States for the calling of a convention of the states limited to proposing amendments to the Constitution of the United States that impose fiscal restraint on the federal government, that limit the powers and jurisdiction of the federal government, and that limit the terms of office for its officials and for members of Congress; state that the application should be aggregated with the applications of other states limited for the purposes identified in the applications.

Legal commentators have noted that such a constitutional convention cannot be limited to such matters.

## **BILLS AND RESOLUTIONS WE'RE TRACKING FOR WHICH KRC HAS TAKEN NO POSITION**

### **House Bills**

HB 58 (Huff, York)(H. Rules)

Would raise the pension income tax exclusion from \$31,110 to \$41,110 effective January 1, 2018.

HB 114 (Dossett)(S. Rules)

Would move deadline for filing statement-of-candidacy form from April to January.

HB 125 (Schamore)(H. Rules)

Would prohibit the destruction or abandonment of usable meat from deer or elk that are taken and killed in the Commonwealth and prohibit the dumping of deer or elk carcasses on public areas or private areas without permission.

HB 130 (Tipton and others)(S. Rules)

Would amend law on terroristic threatening to include public gatherings, places of public accommodation, churches, and places of worship as places covered by the offense of terroristic threatening in the second degree.

HB 136 (St. Onge and others)(H. Rules)

Would decriminalize medical marijuana and provide for regulation of its cultivation and use.

HB 178 (Koenig)(H. LO&AR)(posted)

Bill codifying reorganization of Public Protection Cabinet.

HB 194 (Moore)(H. Veterans)(posted)

Would allow persons with valid concealed deadly weapons licenses or temporary permits to carry concealed weapons on public postsecondary property and remove criminal penalties.

HB 195 (Moore)(H. State Govt)(posted)

Would prohibit governmental bodies from contracting with a contractor who engages in boycotting a person or entity with which Kentucky can enjoy open trade.

HB 196 (Moore)(To Governor)

Would change the quorum requirement for the Emergency Response Commission to a simple majority of currently appointed members.

HB 201 (Fischer)(To Governor)

Would allow service of process on nonresidents to be made in any manner authorized by the Kentucky Rules of Civil Procedure, including certified mail with return receipt requested.

HB 202 (Riley, Willner, Nemes)(H. Ed)(posted)

Would prohibit corporal punishment as a form of discipline in a school.

HB 203 (Blanton, Hatton)(H. Rules, recommitted to H. A&R)

Would create a tax credit and establish an application and approval process for investment in growth businesses by a growth fund and verification related to the new tax credit, called the Kentucky Rural and Opportunity Zone Jobs Act.

HB 209 (Carney)(S. Ed)

Would require at least two water bottle filling stations in each school, at least one drinking fountain or water bottle filling station on each floor and wing of each school building, and at least one drinking fountain or water bottle filling station for every 75 students.

HB 238 (Gooch)(S. NR Energy)

Would expand facilities identified as key infrastructure assets for purposes of felony criminal trespass to include a transmission facility used by a federally licensed radio or television station, steelmaking facility that uses an electric arc furnace to make steel, a facility identified and regulated by the United States Department of Homeland Security Chemical Facility Anti-Terrorism Standards 27 program; and a dam that is regulated by the Commonwealth or federal government. House Committee Substitute would add pipelines carrying natural gas and petroleum and allow recovery of damages.

HB 248 (Fugate and Hale)(S. Rules)

Would increase penalties for boating while intoxicated where injury or property damage results and allow arrest without a warrant.

HB 249 (Fugate, Frazier)(S. Eco Dev)

Would reauthorize the Kentucky Mountain Regional Recreation Authority (KMRRRA) for five years and add eligible counties.

HB 274 (Fugate and others)(S. Rules)(consent)

Would amend current law regarding the powers to conservation officers and individuals employed as conservation officer R class.

HB 302 (Cantrell)(H. Local Govt)

Would allow local governments to pass ordinances setting higher minimum wages than provided by state law.

HB 303 (Cantrell)(H. Transp)

Would prohibit use of personal listening devices covering both ears in vehicles in motion.

HB 311 (Meredith and others)(To Governor)

Would label as misbranded a product represented as a meat product containing cultured animal tissue produced from in vitro animal cell cultures outside an organism from which it derived.

HB 313 (Sims, Turner)(S. Rules)(consent)

Would revise several sections of the statutes governing the Department of Fish and Wildlife.

HB 327 (Maddox)(H. Veterans)(posted)

Would allow concealed deadly weapons to be carried by persons age 21 and over without a license in the same locations where concealed carry license holders may carry them.

HB 339 (Meredith)(To Governor)

Clean-up legislation on classification and powers of cities, updating statutes and extending to cities of 1,000 or less the opportunity to enact a license fee.

HB 402 (Petrie, Platt)(H. A&R)(posted)

Would repeal numerous tax exemptions related to coal combustion and usage.

HB 468 (Heath)(S. Ag)

Would require development of regulations by the Cabinet for Health and Family Services to further delineate which food products are subject to the definition of "home-based processor" under KRS 217.015(36).

HB 476 (S. State Local Govt)

Would establish a task force to evaluate the current effectiveness of Area Development Districts' scope and programming.

## **House Resolutions**



HR 1 (Osborne)(Adopted)

Rules of Procedure for the House for the 2019 Session.

HCR 4 (Schamore)(To Senate)

Concurrent resolution calling on federal government to consider leading federal property for siting of communication infrastructure in Kentucky.

HCR 7 (Schamore)(To Senate)

Concurrent resolution calling on state government to consider leading federal property for siting of communication infrastructure in Kentucky.

HR 105 (Meredith)(Adopted)

Simple resolution urging Congress to direct USDA to regulate food product safety and labeling for “imitation meat products.”

HR 144 (Gooch)(H. Rules)(consent)

Simple resolution calling on the Public Service Commission to amend its regulations to consider all costs, including fossil fuel-related economic impacts within Kentucky, when analyzing coal purchases under the fuel adjustment clause.

## **Senate Bills**

SB 5 (McDaniel and others)(H. Elections)

Proposed constitutional amendment would amend Section 95 of the Constitution of Kentucky to hold the election of the Governor, Lieutenant Governor, Treasurer, Auditor of Public Accounts, Attorney General, Secretary of State, and Commissioner of Agriculture, Labor and Statistics in even-numbered 4 year periods beginning in 2028.

SB 25 (Alvarado)(H. A&R)

Would require proposed increases in ad valorem taxes and certain fees and the levy of new ad valorem taxes or fees by special purpose governmental entities to be submitted to the legislative body of the county or city in which the special purpose governmental entity is located for review.

SB 57 (Higdon)(H. Rules)

Would allow discretionary expungement of Class D felonies with a ten-year waiting period.

SB 60 (McDaniel, Thayer, Wilson)(H. Rules)

Would change the filing deadline for certain candidates for election from the last Tuesday in January to the first Friday following the first Monday in January; and change the deadline for filing a statement-of-candidacy form from April 1 to the first Friday following the first Monday in January.

SB 125 (Hornback)(To Governor)

Would remove requirement that landowners make good faith effort to capture or vaccinate feral cats on their property.

SB 143 (Wilson, Stivers)(To Senate for concurrence with House Committee Sub)

Would prohibit governmental bodies from contracting with a contractor who engages in boycotting a person or entity with which Kentucky can enjoy open trade.

SB 164 (Smith)(H. Rules)

Clean-up legislation that would eliminate the mandate for schools to participate in the Kentucky Energy Efficiency Program. The KEEP program was terminated in 2012 due to lack of funding.

SB 256 (Smith)(H. Rules)

Bill amends statutes relating to Public Service Commission, providing additional clarification on the authority of the Commission to assess and collect penalties and fines.

### **Senate Resolutions**

SR 2 (Stivers)

Rules of Procedure for Senate during 2019 Regular Session.