



February 10, 2023

Legislative Report No. 3

2023 Kentucky General Assembly

Today marks the eighth legislative day of the 2023 Session of the Kentucky General Assembly. There have been a total of 188 senate and 286 house bills and resolutions filed.

Some bills of interest:

[HB 1: B. Reed - AN ACT relating to income taxation.](#)

This bill would reduce the individual income tax to 4.5% for taxable years beginning January 1, 2023, and to 4% for taxable years beginning January 1, 2024. This bill has passed the House and Senate and has been delivered to the Governor for his consideration.

2023 KFB State Priority Issue:

"Kentucky's tax code should be reformed based on sound economic principles to create a more competitive business climate."

[HB 4: J. Branscum – AN ACT relating to merchant electric generating facilities and making an appropriation therefor.](#)

This bill would provide that the terms of service for the ad hoc members of the Kentucky State Board on Electric Generation and Transmission Siting end when the merchant electric generating facility for which they were appointed has been constructed and has begun generating electricity for sale or its construction certificate expires. The bill would also lengthen the period of time that a construction certificate for a merchant electric generating facility is valid from 2 years to 3 years and include decommissioning requirements within the requirements over which local planning and zoning requirements shall have primacy.

This bill also would require that a decommissioning plan be included in an application for construction of a merchant electric generating

facility, establish minimum requirements for a decommissioning plan, require as part of a decommission plan that a bond or similar security be secured to assure that the decommissioning plan is accomplished and establish requirements for how the bond is set and how the beneficiaries of the bond are to be determined. It would require that certain components of the decommissioning plan be incorporated into the construction certificate applicant's leases with landowners and reference the transfer of the enforcement authority for mitigation measures that are conditions of application approval from the board to the Energy and Environment Cabinet to include whether the decommissioning plan is complete and complies with the requirements of the Act.

The bill would also require a person that has received a construction certificate for a merchant electric generating facility file with the Energy and Environment Cabinet the copy of the bond or similar security no later than the date that construction commences for the facility, require that an updated copy of the bond or similar security be refiled at least once every 5 years thereafter and require notice to be filed with the Energy and Environment Cabinet when the construction of the merchant electric generating facility is complete and has begun producing electricity for sale. It would also require that notice be given of any transaction involving the sale or transfer of ownership of the facility to the Energy and Environment Cabinet and local officials within 10 days of finalizing the transaction, require a person who has acquired a merchant electric generating facility to file with the Energy and Environment Cabinet written consent to assume the obligations in the decommissioning plan for the facility and to adopt or replace the required decommissioning bond, provide that the transferor of control of a merchant electric generating facility remain liable for its decommissioning obligations until the transferee completes the documentation required by the Act and the secretary of the Energy and Environment Cabinet accepts it as complete.

Provide that after the application for a construction certificate for a merchant electric generating facility has been approved, the bond required by the Act has been posted, the facility has been constructed, and it has begun generating electricity for sale, the secretary of the Energy and Environment Cabinet shall ensure the facility's ongoing compliance with these requirements and the conditions of its construction certificate approval, including updating its decommissioning plan and bond amounts at least once every 5 years.

The bill would transfer the enforcement authority for mitigation measures that are conditions of application approval from the board to the Energy and Environment Cabinet once the facility is constructed and begins generating electricity for sale and require that while the electric merchant generating facility is operational, if solar panels are

removed and discarded, the discarded solar panels be removed from the site within 90 days of the completion of the work.

The bill also would clarify that an ordinance, permit, or license issued by a local government shall have primacy over all requirements.

The bill would authorize the Energy and Environment Cabinet to monitor and enforce compliance of merchant electric generating entities with the requirements of the Act and authorize the Energy and Environment Cabinet to draw upon a decommissioning bond or other similar security for which it is named a beneficiary to complete an approved decommissioning plan.

The bill would give jurisdiction to the Circuit Court in any county where a merchant electric generating facility is located for actions arising from or related to certain provisions of the Act and allow for a civil penalty not to exceed \$2,500 per day to be imposed for violation of the bonding and bond transfer requirements in the Act. The bill would allow for the suspension of a merchant electric generating facility's operations for failing to pay civil penalties or complying with the bonding transfer requirements of the Act and would allow for the decommissioning of the facility if it is still noncompliant after 90 days of suspension of its operation.

It would also require that if a merchant electric facility fails to complete its decommissioning plan within 18 months of ceasing to produce electricity for sale, then the cabinet shall draw upon the decommissioning bond and implement the decommissioning plan and requires the Energy and Environment Cabinet within 90 days of the effective date of the Act to promulgate administrative regulations to establish the monitoring and enforcement of the bonding and bond transfer requirements of the Act.

The bill would also allow the Energy and Environment Cabinet to establish a fee structure to cover the costs of its enforcement responsibilities and establish the merchant electric generating facility monitoring and enforcement fund to receive the fees and penalties collected by the Energy and Environment Cabinet pursuant to their monitoring and enforcement responsibilities under the Act and require that the funds collected only be used to defray the Energy and Environment Cabinet's costs related to their monitoring and enforcement responsibilities under the Act. It would also require that all expenses for the determination of the bond amount and for the procurement of decommissioning services by the Energy and Environment Cabinet be paid by the owner of the merchant electric generating facility.

2023 KFB State Priority Issues:

"Support a decommissioning bond on all commercial solar projects. These bonds should be reviewed at least every three years."

"Support oversight of ownership and control for energy infrastructure."

Action Request

Please contact your State Representative and ask them to **co-sponsor** and **support** [HB 4](#).

SB 54: J. Carpenter – AN ACT relating to Kentucky educational excellence scholarships.

This bill would define "proprietary school" and "qualified proprietary school program" and allow use of KEES funds for enrollment in a qualified proprietary school program. The bill has been referred to the Senate Education Committee.

2023 KFB State Priority Issue:

"Support the Kentucky Educational Excellence Scholarship (KEES) Program to allow eligible students to use funds at proprietary schools."

SB 46: J. Howell – AN ACT relating to the reorganization of the Office of State Veterinarian.

This bill would update the Office of State Veterinarian's Division of Animal Health to the Division of Regulatory Field Services by changing the Division of Producer Services to the Division of Animal Health Programs, and would establish the Division of Emergency Preparedness and Response. This bill has been assigned to the Senate Agriculture Committee.

KFB Policy:

"We recommend the KDA Office of the State Veterinarian have adequate amount of funding for trained subject matter experts for prompt disease response."

HOW TO CONTACT YOUR LEGISLATORS

During the week, you may reach your representative and senator in Frankfort by calling 502.564.8100.

If you do not desire to talk to your state legislator immediately or you just want to leave a message, you may dial toll-free 800.372.7181. An answering service will take your message for your representative or senator. The legislative calendar information line is 800.633.9650, the bill status line is 866.840.2835, and the Governor's office number is 502.564.2611.

If you desire to e-mail your representative or senator, [click here](#) for a list of e-mail addresses for members of the Kentucky General Assembly. Find your legislator and click on his or her name to access their e-mail address.

YOUR LOBBYISTS

The following are registered to lobby for Kentucky Farm Bureau for the 2023 session: Kyle Kelly, Public Affairs Director, extension 7417, and Drew Graham, extension 5121. If you would like to call your lobbyists during the evening, call 502.495.5000 and key in their extensions.

If you would like to contact one of your lobbyists during the day, please call Katie Weatherholt at 502.493.7669 and she will put you in touch with one of them.

KEEP ALL LEGISLATIVE REPORTS FOR FUTURE USE

We suggest that you keep a record of the Legislative Reports on file because, on occasion, we may refer to a previous report as a source of more details regarding an issue.

FUTURE DATES OF INTEREST

February 20..... President’s Day Holiday
February 21..... Last Day for New Senate Bills
February 22..... Last Day for New House Bills
March 15 & 16Concurrence Only
March 17–28 Veto Period
March 30.....General Assembly, Sine Die

**The Legislative Report and KFB's Priority Issues are also on
KFB's website at kyfb.com and the KFB app.**