



**Kentucky Legislative Report
February 13, 2017 - Regular Session Update**

**Prepared by
Scott R. Smith and Kori Andrews**

scottr.smith@smithmanage.com 859-231-8936 x116

Scott's Thoughts

What a beginning to a legislative session! As you probably know by now, bills addressing [Right-to-Work](#) and [Prevailing Wage](#) were passed in the first week. That's just "shock and awe!" Hopefully, they can keep things rolling. There are several bills that are purported being drafted by the Energy & Environmental Cabinet but do not appear to have been filed yet. They include an amendment to eliminate requirements to pay KPDES permitting fees in two parts; one fee will be collected at the time the application is filed. Other potential Cabinet bills include a repeal of KRS 224 Subchapter 30 regarding noise control; a repeal of statutes which establish the Environmental Quality Commission, and legislation that would eliminate requirements that individual home owners have a wastewater treatment certification.

[House Bill 50](#) sets out a "sunset" provision for every administrative regulation to expire after seven years. For rules that predate 2012, regulators will have two years to evaluate the measures and decide how to proceed. Texas has a Sunset Advisory Commission that makes recommendations to the Legislature on whether to continue various state agencies. Currently the Commission has abolished 37 agencies and consolidated another 46. Saved the State \$980M.

[SB 11](#) & [HB 90](#) will help the development of nuclear power by requiring a plan for the storage of waste and allow for certification if the facility & its plans for waste storage are approved by NRC. It will eliminate requirements for facilities to have a plan for disposal of high level nuclear waste.

[HB 276](#) is a must read. If you wonder where your taxpayer money has been going, check out how many mandated Boards, Counsels and Commissions within state government are proposed to be eliminated by that bill. Others I am sure will follow.

[SB 51](#) addresses the unlawful use of unmaned aircraft systems. My question is: will it apply to the use of this type of aircraft by state and federal government?

There will be legislation filed later this session that will, in part, fulfill a legislative mandate to address NORM and TNORM wastes related to the oil and gas industry. The proposed rule will clarify the definition of those terms and require the regulatory agencies to develop regulations before requiring industry to implement changes to existing regulations. Regulations implementing requirements for the Oil and Gas Industry should be published sometime in 2017.

Other industries that manage TNORM should watch for these regulations and take a look at the process used to develop these rules. Your industries could be next up in the regulatory process.

The last day to file Senate Bills is February 16th and February 17th for House Bills. Because of this, next week could be interesting.

The bill numbers found in this document are linked to the Kentucky Legislative Review Commission’s web page so you can review the legislation.

This is by no means an all encompassing list of bills. Don’t hesitate to contact me if you want me to add additional issues, need copies of the proposed legislation or have questions about these or other bills you’ve heard about.

DO YOU KNOW SOMEONE WHO WANTS TO RECEIVE THESE UPDATES?

Send this to a colleague and tell them to write us at scottr.smith@smithmanage.com if they want to receive notice when these postings are updated.

QUESTIONS, COMMENTS, ADDITIONAL INFORMATION

Scott R. Smith, scottr.smith@smithmanage.com, 859-231-8936 x 116 or
Kori Andrews, koria@smithmanage.com, 502-587-6482 x207.

Contents

Energy/Utilities.....	3
Waste.....	3
Other	4

Lexington
1405 Mercer Road
Lexington, KY 40511
859-231-8936
859-231-8997 fax

Louisville
1860 B Williamson Court
Louisville, KY 40223
502-587-6482
502-587-6572 fax



Energy/Utilities**HB 165 - J. DuPlessis**

AN ACT relating to tax incentives to promote the increased use of Kentucky coal.

Amend KRS 141.0405 to once again permit the coal incentive tax credit, which was previously allowed and which sunsetted for most types of facilities in tax year 2009; amend provisions to provide an incentive to taxpayers purchasing coal, that is subject to Kentucky severance and processing tax, for use in the generation of electricity or for certain industrial processes; provide for the sunset of the credit; make technical corrections; repeal KRS 141.0406, relating to claims for the coal incentive tax credit.

Jan 07, 2017 - introduced in House
Feb 07, 2017 - to Appropriations & Revenue (H)

SCR 21 - R. Thomas

Recognize the importance of diversifying energy sources for generating electricity in Kentucky; encourage the development of a statewide energy strategy.

Nov 03, 2016 - Prefiled by the sponsor(s).
Jan 03, 2017 - introduced in Senate
Jan 07, 2017 - to Natural Resources & Energy (S)

HR 28 - A. Hatton

Urge the Congress to lift restrictions on the coal industry.

Jan 07, 2017 - introduced in House
Feb 07, 2017 - to Natural Resources & Energy (H)

HB 43/FN - J. York

AN ACT relating to the use of local government economic assistance fund moneys.

Amend KRS 42.472 to partially restrict the use of local government economic assistance fund (LGEAF) moneys distributed to counties from oil and natural gas to the repair and maintenance of streets and roads; EFFECTIVE July 1, 2017.

Sep 19, 2016 - Prefiled by the sponsor(s).
Jan 03, 2017 - introduced in House; to Appropriations & Revenue (H)

HB 61/FN/LM - J. Gooch Jr.

AN ACT relating to the allocation of severance tax revenues to local governments.

Amend KRS 42.450 to increase the amount of minerals severance and processing taxes distributed to local governments through the local government economic assistance fund (LGEAF) to 100% of taxes collected, from the current 50%, over a five-year period; amend KRS 42.4582 and 42.4585 to similarly increase the amount of coal severance and processing taxes distributed to local governments through the local government economic development fund and LGEAF to 60% and 40% of taxes collected, from the current 35% and 15%, respectively, over the same five-year period.

Oct 25, 2016 - Prefiled by the sponsor(s).
Jan 03, 2017 - introduced in House; to Appropriations & Revenue (H)

Waste**SB 11 - D. Carroll**

AN ACT relating to nuclear power.

Amend KRS 278.600 to require that nuclear power facilities have a plan for the storage of nuclear waste rather than a means of permanent disposal and to add definitions of "storage," "low-level nuclear waste," and "mixed nuclear waste"; amend KRS 278.610 to allow certification if the facility and its plans for waste storage are approved by the Nuclear Regulatory Commission; eliminate the requirement that the facility have a plan for disposal of high-level nuclear waste; eliminate the requirement that cost of waste disposal be known; eliminate the requirement that the facility have adequate capacity to contain waste; give the Public

Lexington
1405 Mercer Road
Lexington, KY 40511
859-231-8936
859-231-8997 fax

Louisville
1860 B Williamson Court
Louisville, KY 40223
502-587-6482
502-587-6572 fax



Service Commission authority to hire a consultant to perform duties relating to nuclear facility certification; prohibit construction of low-level nuclear waste disposal sites in Kentucky except as provided in KRS 211.852; direct the Energy and Environment Cabinet to review regulations required for permitting nuclear facilities and report to LRC; repeal KRS 278.605, relating to construction of nuclear power facilities.

Sep 19, 2016 - Prefiled by the sponsor(s).
Jan 03, 2017 - introduced in Senate
Jan 07, 2017 - to Natural Resources & Energy (S)

HB 90 - G. Watkins, J. Richards

AN ACT relating to nuclear power.
Amend KRS 278.600 to define "plan for storage of high-level nuclear waste," "storage," and "low-level nuclear waste"; amend KRS 278.610 to allow certification if the facility and its plans for waste storage are approved by the Nuclear Regulatory Commission; eliminate requirement that facility have a plan for disposal of high-level nuclear waste; eliminate requirement that cost of waste disposal be known; eliminate requirement that facility have adequate capacity to contain waste; give the Public Service Commission authority to hire consultant to perform duties relating to nuclear facility certification; prohibit construction of low-level nuclear waste disposal sites in Kentucky. except as provided in KRS 211.852; repeal KRS 278.605, relating to construction of nuclear power facilities; direct the Energy and Environment Cabinet to review regulations required for permitting nuclear facilities and report to LRC.

Dec 08, 2016 - Prefiled by the sponsor(s).
Jan 03, 2017 - introduced in House; to Natural Resources & Energy (H)

HB 119 - J. Gooch Jr., M. Castlen

AN ACT relating to solid waste management.
Amend KRS 109.012 to define "franchise," "local government," and "service company" and include "solid waste management services" in the definition of "solid waste management"; create a new section

of KRS Chapter 109 to prohibit a local government from displacing a current provider of solid waste management services without notification and public hearing; prescribe timetables for a local government to make a decision on an action to displace a current provider of solid waste management services; allow displacement if services pose a risk to health or safety of residents or a material breach of contract; amend KRS 224.43-315 to provide that an agreement with a county containing a non-designated city shall include both the county and city; amend KRS 224.43-345 to identify additional representatives for an advisory committee; amend KRS 224.50-760 to conform.

Jan 03, 2017 - introduced in House
Jan 06, 2017 - to Natural Resources & Energy (H)

Other

SB 51/CI/LM - W. Westerfield, D. Carroll

AN ACT relating to protection of critical infrastructure.

Create a new section of Chapter 183 to create the offense of unlawful use of an unmanned aircraft system; define "critical infrastructure," "unmanned aircraft," and "unmanned aircraft system"; prohibit the use of an unmanned aircraft system to collect evidence or information about critical infrastructure without prior written consent and make the unlawful use of an unmanned aircraft system for this purpose a Class A or Class B misdemeanor.

Jan 03, 2017 - introduced in Senate
Jan 07, 2017 - to Judiciary (S)

HR 9 - T. Couch

Urge the United States Environmental Protection Agency to prioritize compliance assistance over current enforcement practices.

Sep 20, 2016 - Prefiled by the sponsor(s).
Jan 03, 2017 - introduced in House; to Natural Resources & Energy (H)

Lexington
1405 Mercer Road
Lexington, KY 40511
859-231-8936
859-231-8997 fax

Louisville
1860 B Williamson Court
Louisville, KY 40223
502-587-6482
502-587-6572 fax



[HB 50 - K. Imes](#)

AN ACT relating to administrative regulations.
 Amend KRS 13A.010 to amend the definition of "administrative regulation" and to define "last effective date"; amend KRS 13A.040 to require the regulations compiler to maintain a list of all administrative regulation numbers and their corresponding last effective dates; amend KRS 13A.220 and 13A.222 to make conforming changes to enable the renewal of an administrative regulation; amend KRS 13A.310 to provide that, beginning July 1, 2017, an ordinary administrative regulation shall expire 7 years after its last effective date; provide that an administrative regulation that has a last effective date prior to July 1, 2012, shall expire on July 1, 2019; establish duties of regulations compiler; and establish requirements for an administrative body that does not want an administrative regulation to expire.

Sep 28, 2016 - Prefiled by the sponsor(s).
 Jan 03, 2017 - introduced in House; to Licensing, Occupations, & Admin Regs (H)
 Feb 10, 2017 - posted in committee

[HB 276 - P. Moffett](#)

AN ACT relating to statutorily mandated boards, councils, and commissions within state government.
 Repeal various sections in KRS Chapters 11, 15., 18A, 36, 64, 146, 147, 153, 158, 164, 171, 177, 198B, 205, 211, 216, 336, 342, and 403 to abolish inactive boards, commissions, committees, and councils, including the Agricultural Resource Development Authority, the Architectural Barriers Advisory Committee, the Athletic Trainers Advisory Council, the Auto and Truck Recyclers Licensing Advisory Board, the Capitol Centennial Commission, the Cardiovascular Disease Initiative, the Child Support Enforcement Commission, the Children's Health Insurance Program Advisory Council, the Diabetes Research Board, the Council on Domestic Violence and Sexual Assault, the Advisory Committee for Educational Improvement, the e-Health Network Board, the Council for Families and Children, the Family Health Care Providers Board, the Innovation

Commission, the Labor-Management Advisory Council, the My Old Kentucky Home Advisory Commission, the National Guard and Reserve Employers' Council, the Natural History Museum Board of Directors, the Personnel Steering Committee, the Public Officials Compensation Commission, the Southern Growth Policies Board, the Underground Railroad Advisory Council, the War of 1812 Bicentennial Commission, the Workers' Compensation Advisory Council, the Bicentennial Commission, the Health Care Infrastructure Authority, and the Historical Events Celebration Commission; amend KRS 148.400 to direct the use of funds in the "My Old Kentucky Home Endowment Fund"; amend KRS 403.705 to decrease the responsibilities of local domestic violence coordinating councils and to direct any recommendations be transferred to the commissioner of the Department for Community Based Services; repeal, reenact and amend KRS 407.707 to create a Sexual Assault Response Team Advisory Committee attached to the Department for Community Based Services, staffed as necessary by the secretary of the Cabinet for Health and Family Services; transfer any committee recommendations to the commissioner of the Department for Community Based Services; require the secretary to make certain appointments; establish continuation of service of members of the Sexual Assault Response Team Advisory Committee; direct transfer of funds of abolished boards, commissions, committees, and councils to the appropriate cabinets and agencies; amend various KRS sections to conform.

Feb 09, 2017 - introduced in House

Lexington
 1405 Mercer Road
 Lexington, KY 40511
 859-231-8936
 859-231-8997 fax

Louisville
 1860 B Williamson Court
 Louisville, KY 40223
 502-587-6482
 502-587-6572 fax

