



**Kentucky Legislative Report
March 21, 2017 - Regular Session Update
Prepared by
Scott R. Smith**

**Scott's Thoughts
March 21, 2017**

The General Assembly's 2017 session is now in its veto recess, when lawmakers return to their home districts and give time for the Governor to consider casting vetoes. Lawmakers are scheduled to return to the Capitol on March 29 and 30 for the final days of the 2017 legislative session.

I have eliminated Bills in this report that don't appear to have enough support to make it to the Governor's desk in the two remaining days of the session. Let's take a look at what this historic legislative session has accomplished and what almost made it that relate to environmental issues.

The reorganization bills for the Public Service Commission (SB 183) and Energy and Environment Cabinets (SB 249) are awaiting the Governor's signature. Reorganization Bills are typically used to reflect an Administration's regulatory or management philosophy while carrying out the mission of the Cabinet. The Energy and Environment's Bill eliminates several advisory groups and commissions. This is a good start but more work in this area needs to be done. This Bill also modifies certain statutes regarding when KPDES permitting fees must be paid and eliminates wastewater treatment certification for single family household systems. This Bill will be covered in detail in a new article from SMG called, "Under The Microscope". This will be a detailed analysis of certain important or complicated legislation or regulations that are developed by the state or federal government.

The Public Service Commission reorganization bill (SB 183) is less complicated and more straight forward. It's one page long. This bill appears to be more of a movement and renaming of boxes on the Commission's organization chart. For example, they have abolished the Division of Engineer and transferred files, funds, staff, etc. to a newly established Division of Inspection. Those who practice in front of the Commission should look at these changes and see how they may impact the performance of the organization.

SB 11, Kentucky's nuclear option has passed both houses and is heading to the Governor. This Bill amended statutes to eliminate the requirement that a facility have a way to permanently dispose of nuclear waste. Instead, they would only be required to have a plan for safe storage and that the plan be approved by the US Nuclear Regulatory Commission.

HJR 56 has been approved and with the Governor’s signature will require a study to identify and gather information on privately owned and operated small waste water treatment plants. This resolution also will be looking at methods needed to respond to plant failures. This will be an interesting report to review once they have it completed.

HB 384 was passed to reduce the number of inspections for underground mines.

I’m not sure what happened to the reorganization bill for Fish and Wildlife (HB 376). I’m assuming it will be addressed between now and the end of the session on March 30.

It will be interesting to see which, if any of these Bills the Governor will veto, so stay tuned. It’s also not too early to start thinking about some legislation for the upcoming 2018 Session. I know that I’m starting my list. 2018 will be the long session and will be the Bevin Administration’s last budget session for this term.

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

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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

[SB 183 - J. Carpenter](#)

AN ACT relating to reorganization. Confirm Executive Order 2016-832, relating to the reorganization of the Public Service Commission, which is administratively attached to the Energy and Environment Cabinet.

Feb 14, 2017 - introduced in Senate
 Feb 15, 2017 - to Natural Resources & Energy (S)
 Feb 22, 2017 - reported favorably, 1st reading, to Consent Calendar
 Feb 23, 2017 - 2nd reading, to Rules
 Feb 27, 2017 - posted for passage in the Consent Orders of the Day for Tuesday, February 28, 2017
 Feb 28, 2017 - 3rd reading, passed 37-0; received in House
 Mar 01, 2017 - to State Government (H)
 Mar 03, 2017 - posted in committee
 Mar 07, 2017 - reported favorably, 1st reading, to Consent Calendar
 Mar 08, 2017 - 2nd reading, to Rules; posted for passage in the Consent Orders of the Day for Tuesday, March 14, 2017
 Mar 14, 2017 - 3rd reading, passed 97-0; received in Senate; enrolled, signed by President of the Senate; enrolled, signed by Speaker of the House; delivered to Governor

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 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.

AMENDMENTS

[SB 11 \(As Introduced\)](#)

[SCS1](#) - 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 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; declare short title of the Act to be the Robert J. Leeper Act.

AMENDMENTS

[SB 11 \(As Introduced\)](#)

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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



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[SFA1](#)(D. Carroll) - Add Public Service Commission to agencies making review of necessary regulations for implementation.

Sep 19, 2016 - Prefiled by the sponsor(s).
 Jan 03, 2017 - introduced in Senate
 Jan 07, 2017 - to Natural Resources & Energy (S)
 Feb 15, 2017 - reported favorably, 1st reading, to Calendar with Committee Substitute (1)
 Feb 16, 2017 - 2nd reading, to Rules
 Feb 21, 2017 - floor amendment (1) filed to Committee Substitute
 Mar 01, 2017 - posted for passage in the Regular Orders of the Day for Wednesday, March 1, 2017; 3rd reading, passed 27-8 with Committee Substitute and floor amendment (1)
 Mar 02, 2017 - received in House
 Mar 03, 2017 - to Economic Development & Workforce Investment (H)
 Mar 06, 2017 - posted in committee
 Mar 07, 2017 - reported favorably, 1st reading, to Calendar
 Mar 08, 2017 - 2nd reading, to Rules; posted for passage in the Regular Orders of the Day for Tuesday, March 14, 2017

Mar 15, 2017 - 3rd reading, passed 65-28; received in Senate; enrolled, signed by President of the Senate; enrolled, signed by Speaker of the House; delivered to Governor

[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.

AMENDMENTS

[HB 119 \(As Introduced\)](#)

[HCS1/LM](#) - Retain original provisions of HB 119; exempt the restrictions on local governments commencing or awarding franchise for solid waste management services from renewals and expansion of services for single and two-family dwellings; delete satisfaction of requirements via public advertisement and compliance with time frames; require public hearing and written notice and time frames for notice; require that any agreement for solid waste collection in a city that is not a designated city include both city and county; make conforming subsection reference changes.

Jan 03, 2017 - introduced in House
 Jan 06, 2017 - to Natural Resources & Energy (H)
 Feb 14, 2017 - posted in committee
 Feb 16, 2017 - reported favorably, 1st reading, to Calendar with Committee Substitute

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



Feb 17, 2017 - 2nd reading, to Rules
 Feb 21, 2017 - posted for passage in the Regular Orders of the Day for Wednesday, February 22, 2017
 Feb 22, 2017 - 3rd reading, passed 96-0 with Committee Substitute (1)
 Feb 23, 2017 - received in Senate
 Feb 24, 2017 - to Natural Resources & Energy (S)
 Mar 01, 2017 - reported favorably, 1st reading, to Calendar

Mar 02, 2017 - 2nd reading, to Rules
 Mar 06, 2017 - posted for passage in the Regular Orders of the Day for Tuesday, March 7, 2017
 Mar 07, 2017 - 3rd reading, passed 22-16; received in House; enrolled, signed by Speaker of the House

Mar 08, 2017 - enrolled, signed by President of the Senate; delivered to Governor

[SB 248 - J. Carpenter](#)

AN ACT relating to radiation.
 Amend KRS 211.862 to amend the definition of Naturally-occurring radioactive material (NORM); add the definition of Technologically-enhanced naturally-occurring radioactive material (TENORM); amend KRS 211.863 to add provisions relating to TENORM; exempt certain drill cuttings from wells from regulation as TENORM; authorize the Cabinet for Health and Family Services to regulate TENORM.

Feb 16, 2017 - introduced in Senate
 Feb 21, 2017 - to Natural Resources & Energy (S)
 Feb 22, 2017 - reported favorably, 1st reading, to Consent Calendar
 Feb 23, 2017 - 2nd reading, to Rules
 Feb 27, 2017 - posted for passage in the Consent Orders of the Day for Tuesday, February 28, 2017
 Feb 28, 2017 - 3rd reading, passed 37-0; received in House
 Mar 01, 2017 - to Health and Family Services (H)
 Mar 02, 2017 - reassigned to Natural Resources & Energy (H)
 Mar 03, 2017 - posted in committee
 Mar 07, 2017 - reported favorably, 1st reading, to Calendar
 Mar 14, 2017 - 3rd reading, passed 92-1

Mar 15, 2017 - received in Senate; enrolled, signed by President of the Senate; enrolled, signed by Speaker of the House; delivered to Governor

Other

[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.

AMENDMENTS

[HB 50 \(As Introduced\)](#)

[HCS1](#) - Amend KRS 13A.010 to redefine "last effective date"; delete new references to administrative regulation renewal from KRS 13A.220 and 13A.222; amend KRS 13A.310 to delete all new language except for modified cross-references; create a new section of KRS Chapter 13A to establish administrative regulation expiration dates; direct the regulations compiler to follow procedures for initial and subsequent administrative regulation expirations and effective dates; create a new section of KRS Chapter 13A to set up a certification letter process for any agency that does not want its administrative regulations to expire; designate certification letter format and filing requirements; instruct the regulations compiler to publish each certification letter in the Administrative Register of Kentucky.

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



Sep 28, 2016 - Prefiled by the sponsor(s).
 Jan 03, 2017 - introduced in House; to Licensing, Occupations, & Admin Regs (H)
 Feb 17, 2017 - posted in committee
 Feb 21, 2017 - reported favorably, 1st reading, to Consent Calendar with Committee Substitute
 Feb 22, 2017 - 2nd reading, to Rules; posted for passage in the Consent Orders of the Day for Thursday, February 23, 2017
 Feb 23, 2017 - taken from the Consent Orders of the Day, placed in the Regular Orders of the Day for February 24, 2017
 Feb 27, 2017 - 3rd reading, passed 80-9 with Committee Substitute
 Feb 28, 2017 - received in Senate; to Licensing, Occupations, & Administrative Regulations (S)
 Mar 06, 2017 - taken from Licensing, Occupations, & Administrative Regulations (S); 1st reading; returned to Licensing, Occupations, & Administrative Regulations (S)
 Mar 07, 2017 - reported favorably, 2nd reading, to Rules
 Mar 08, 2017 - posted for passage in the Regular Orders of the Day for Wednesday, March 8, 2017; 3rd reading, passed 37-0
 Mar 14, 2017 - received in House; enrolled, signed by Speaker of the House; enrolled, signed by President of the Senate; delivered to Governor

[SB 249 - J. Carpenter](#)

AN ACT relating to the Energy and Environment Cabinet.

Amend KRS 12.020 to remove Environmental Quality Commission, Kentucky Mining Board from under the Energy and Environment Cabinet and attach the Center for Renewable Energy Research and Environmental Stewardship to other departments; amend KRS 146.090, 146.100, 146.110, 146.210, 146.270, 146.280, 146.320, and 146.330 to correct references to the Energy and Environment Cabinet, make grammatical and technical corrections, and authorize the Secretary rather than the commission to promulgate administrative regulations; amend KRS 146.415 to add a definition for "Secretary" to mean the Secretary of the Energy

and Environment Cabinet; amend KRS 146.485 to authorize the Secretary rather than the commission to promulgate administrative regulations; amend 147A.031 to delete references to the Environmental Quality Commission; amend KRS 151.293 to allow the owner of a dam to request review and final determination by the cabinet after a request for variance has been denied and to appeal the final decision; amend 152.713 to unattach the Center for Renewable Energy Research and Environmental Stewardship from the Energy and Environment Cabinet and to identify the center as a public agency; amend KRS 154.47-005 to delete definition of "Kentucky Forest Products Council" and renumber accordingly; amend KRS 224.10-022 and KRS 224A.1-010 to delete references to the Environmental Quality Commission and renumber accordingly; amend KRS 224.70-120 to delete reference to a 20% filing fee for KPDES permit and make fee equal to the cost of review with cost ceiling for different tiers; amend KRS 189.450, 224.40-31, 224.50-760, and 224.50-856 to make conforming subsection references changes; amend KRS 224.73-110 to add person operating a sewage system at residence where the person lives to those who may have primary responsibility for operation of a sewage system; amend KRS 224.80-100, 224A.011, and 349.010 to make conforming subsection references changes; amend 351.010 and 351.070 to delete references to Mining Board and renumber subsections accordingly; amend KRS 351.090, 351.102 and 351.103 to changes references to Board to department; amend KRS 351.1041 to change references from Board to commission; amend KRS 351.1045 to delete references to the Mining Board; amend KRS 351.106 to change Mining Board to department and delete reference to the commissioner making recommendations at the board's request; amend 351.110 and 351.120 to change references from board to department; amend 351.122 to change board to department and delete references to course of examination and instruction by the board; amend KRS 351.125 to make technical corrections; amend KRS 352.010 to delete the Mining Board from definitions and renumber subsections accordingly; amend KRS

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



352.310 to change board to Mine Safety Review Commission; amend KRS 224.10-100, 224.30-175, 224.48-815, 224.46-520, 350.240, and 350.054 to make conforming reference changes; repeal KRS 151.232; KRS 154.47-100, 154.47-105; KRS 154.47-110; KRS 154.47-120; KRS 224.1-100; KRS 224.1-105; KRS 224.1-110; KRS 224.1-115; KRS 224.1-200; KRS 224.1-205; KRS 224.1-210; KRS 224.1-215; KRS 224.1-220; KRS 224.10-660; KRS 224.30-050; KRS 224.30-100; KRS 224.30-105; KRS 224.30-110; KRS 224.30-115; KRS 224.30-120; KRS 224.30-125; KRS 224.30-130; KRS 224.30-135; KRS 224.30-140; KRS 224.30-145; KRS 224.30-150; KRS 224.30-155; KRS 224.30-160; KRS 224.30-165; KRS 224.30-170; KRS 224.30-180; KRS 224.30-185; KRS 224.30-190; KRS 224.30-195; KRS 224.43-070; KRS 224.43-080; KRS 224.43-710; KRS 224.43-720; KRS 224.43-730; KRS 224.46-810; KRS 224.46-820; KRS 224.46-825; KRS 224.46-830; KRS 224.46-840; KRS 224.46-850; KRS 224.46-860; KRS 224.46-870; KRS 224.50-020; KRS 350.035; KRS 350.052; KRS 350.053; KRS 350.260; KRS 350.470; KRS 350.715; KRS 351.105; KRS 351.1055; and 352.550.

NOTE: SMG will post an article exploring the details of this reorganization on www.smithmanage.com

AMENDMENTS

[SB 249 \(As Introduced\)](#)

[SCS1](#) - Retain original provisions of SB 249; amend KRS 146.100 to change "approve" to "advise"; amend KRS 146.430 to change commission to Secretary of the Energy and Environment Cabinet and give authority to the Secretary to hire a director with the approval of the commission; repeal KRS 224.43-320; amend KRS 12.020 to delete the Center for Renewable Energy Research and Environmental Stewardship; amend KRS 152.713 to delete reference to the Center as a public entity.

Feb 16, 2017 - introduced in Senate
Feb 21, 2017 - to Natural Resources & Energy (S)
Feb 22, 2017 - reported favorably, 1st reading, to

Consent Calendar with Committee Substitute
Feb 23, 2017 - 2nd reading, to Rules
Feb 27, 2017 - posted for passage in the Consent Orders of the Day for Tuesday, February 28, 2017
Feb 28, 2017 - 3rd reading, passed 36-1 with Committee Substitute; received in House
Mar 01, 2017 - to Natural Resources & Energy (H)
Mar 03, 2017 - posted in committee
Mar 07, 2017 - reported favorably, 1st reading, to Calendar

Mar 08, 2017 - 2nd reading, to Rules; posted for passage in the Regular Orders of the Day for Tuesday, March 14, 2017

Mar 14, 2017 - 3rd reading, passed 64-29

Mar 15, 2017 - received in Senate; enrolled, signed by President of the Senate; enrolled, signed by Speaker of the House; delivered to Governor

[HB 376 - D. Hale](#)

AN ACT relating to reorganization.
Amend KRS 12.020 to reflect the reorganization of the Department of Fish and Wildlife Resources and to confirm Executive Order 2016-857.

Feb 15, 2017 - introduced in House
Feb 16, 2017 - to Tourism & Outdoor Recreation (H)

Feb 21, 2017 - posted in committee
Feb 23, 2017 - reported favorably, 1st reading, to Consent Calendar

Feb 24, 2017 - 2nd reading, to Rules; posted for passage in the Consent Orders of the Day for Monday, February 27, 2017

Feb 27, 2017 - taken from the Consent Orders of the Day, placed in the Regular Orders of the Day; 3rd reading, passed 76-10

Feb 28, 2017 - received in Senate; to Natural Resources & Energy (S)

Mar 01, 2017 - to Natural Resources & Energy (H)

Mar 03, 2017 - posted in committee
Mar 07, 2017 - reported favorably, 1st reading, to Calendar

Mar 08, 2017 - reported favorably, 1st reading, to Consent Calendar

Mar 14, 2017 - 2nd reading, to Rules

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

