



Kentucky Legislative Report March 21, 2018 - Regular Session Update

Scott's Thoughts

This session of the General Assembly will end soon. The last normal working day may be March 22. Other important dates include the Concurrence Session March 27 and 28 followed by the Veto Session March 29-April 9.

While the non-environmental measures have held up and, in some cases, stymied the General Assembly, there have been some environmental/KY OSHA issues that have made it through the legislative gauntlet or appear to be near passage.

First, the success stories. HB 314, legislation that abolished the Kentucky OSHA Occupational Safety and Health Board and gave the Labor Cabinet Secretary the Board's authority, was sent to the Governor March 1. SB 229, the Energy and Environmental Cabinet's reorganization bill, was sent to the Governor's office on March 15.

The remaining KOSHA Bill (HB 382) looks almost like a Cabinet reorganization. Portions of this Bill clarify the abolishment of the KOSHA Board; it removes the Division of Workers' Compensation Funds from the Department of Workers' Claims; creates a new section in KRS Chapter 336 to set forth the authority of the inspector general including subpoena power and other changes. I suggest if you are involved in Kentucky's OSHA issues that you look at this legislation in more detail.

Several bills did not make it through the Legislature, many for good reasons such as HB 53 which would immunize from liability a motor vehicle operator who negligently injures or kills any person who obstructs traffic during a protest or march for which no permit has been granted.

Net Metering – HB 227, the bill to address the subsidization of private solar by non-participants, passed out of the House Thursday, March 15. The bill was amended to address several concerns raised by members in the House. The bill now includes the following:

- Effective date of the bill moved to January 1, 2019;
- All existing private solar consumers will be grandfathered in, and any already enrolled property transferred after the effective date will be grandfathered in as well;
- The Public Service Commission (PSC) will determine the price of the solar energy pushed back onto the utility companies, which they are required by law to purchase.

The bill moves to the Senate Natural Resources and Energy Committee for a vote this week.

SB 197, the water well driller bill, got legs last week, passed the Senate and now resides in the House where there is still time for its passage. This Bill requires anyone who engages in activities associated with drilling a water well to have a valid certificate as a water well driller or water well driller's assistant. The bill deletes the examination exemption for persons in business since 1984 and establishes the application, examination, and other requirements for certified water well driller's assistants. The legislation establishes fees for water well driller's assistant certifications and requires water well driller's assistants to comply with requirements before performing work.

The Environmental Cabinet's hopes of breathing new life into the concept of Voluntary Environmental Remediation projects resides in HB 370. With only one or two remediation projects taking advantage of this program over the past several years this Bill hopes to rekindle some interest from the regulated community. It updates the application requirements, application fees and modifies the public notice requirements. It replaces a covenant not to sue with a corrective action liability agreement. There's much more in this Bill that will hopefully streamline the process. The only problem I have with the Bill is that I think it gives the agency too much time to make decisions and move the process forward. It appears to me that the total administrative time that could be used in this process is about 9 months.

HB 366 that addresses the State Tire Fund and other funds has made its way through the House and was approved and has bounced through the Senate and appears to be ready for Senate Passage.

HB 307 addresses mechanical systems and moved last week and appears ready for passage in the Senate. It exempts certain compressed air receivers, removes cryogenic service piping, hydrogen piping and piping associated with pressure vessels for human occupancy and refrigeration service piping in safety group from the list of exemptions of piping associated with boilers and pressure vessels.

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

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Energy/Environment Cabinet Reorganization

AN ACT relating to the reorganization of the Energy and Environment Cabinet. SB 129 (BR 517) – J. Carpenter
 Mar 15, 2018 - received in Senate; enrolled, signed by President of the Senate; enrolled, signed by Speaker of the House; delivered to Governor

Water

AN ACT relating to water well drillers.SB 197 (BR 1850) - S. Humphries
 Amend KRS 223.400 to define "water well driller's assistant"; amend KRS 223.405 to require anyone who engages in activities associated with drilling a water well to have a valid certificate as a water well driller or water well driller's assistant; amend KRS 3 223.425 to delete the examination exemption for persons in business since 1984 and establish the application, examination, and other requirements for certified water well driller's assistants; amend KRS 223.447 to establish fees for water well driller's assistant certifications; and amend KRS 223.450 to include water well driller's assistants to comply with requirements before performing work.
 Feb 22, 2018 - introduced in Senate
 Feb 23, 2018 - to Natural Resources & Energy (S)
 Mar 07, 2018 - reported favorably, 1st reading, to Consent Calendar with Committee Substitute (1)
 Mar 08, 2018 - 2nd reading, to Rules; posted for

passage in the Consent Orders of the Day for Friday, March 9, 2018
 Mar 09, 2018 - 3rd reading, passed 38-0 with Committee Substitute (1)
 Mar 12, 2018 - received in House
 Mar 14, 2018 - to Natural Resources & Energy (H)

Energy/Utilities

AN ACT relating to net metering. HB 227 (BR 1031) - J. Gooch Jr., M. Castlen, L. Brown, J. Greer, B. Linder, S. Santoro
 Amend KRS 278.465 to redefine "net metering"; amend KRS 278.466 to set the rate of compensation for an eligible customer-generator for electricity produced that flows to the retail supplier to be equal to the most recently approved rate by the Public Service Commission for the retail electric supplier to purchase electricity on an as-available basis from qualifying facilities with design capacities of 100 kilowatts or less; allow the retail electric supplier discretion to either carry forward or pay out the customer for excess generation during a billing period; create an exemption for customer-generators taking net metering service on July 15, 2018, to allow those customers to keep their current net metering contract or tariff rate calculation until they cease to take net metering service at the eligible premises or July 15, 2043, whichever comes first; specify that the exemption does not apply to lessees, successors, assigns, or subsequent owners of eligible premises.

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Mar 14, 2018 - reported favorably, to Rules with Committee Substitute (2); posted for passage in the Regular Orders of the Day for Wednesday, March 14, 2018; floor amendment (30) filed to Committee Substitute (2); 3rd reading, passed 49-45 with Committee Substitute (2)
 Mar 15, 2018 - received in Senate
 Mar 16, 2018 - to Natural Resources & Energy (S)

KY OSHA

Amend to remove language eliminating the Occupational Safety and Health Standards Board and delete the repeal of KRS 337.200, KRS 337.994, and KRS 338.051. HB 382 (As Introduced)

Amend KRS 12.020 to remove the Division of Workers' Compensation Funds from the Department of Workers' Claims and remove the Occupational Health and Safety Standards Board; amend KRS 224.20-320 to remove the OSH Standards Board and insert the Labor Cabinet secretary; amend KRS 336.015 to remove the OSH Standards Board; amend KRS 336.020 to remove the Division of Workers' Compensation Funds from the Department of Workers' Claims; create a new section in KRS Chapter 336 to set forth the authority of the inspector general including subpoena power; amend KRS 338.015 to remove the OSH Standards Board from the definitions; amend KRS 338.061 to remove the OSH Standards Board and give the Labor Cabinet secretary its authority; amend KRS 342.120 to give the Kentucky Workers' Compensation funding commission the authority as formerly possessed by the Division of Workers' Compensation Funds to be responsible for the special fund claims and records; amend KRS 342.232 to require the funding commission and KEMI to report on the CWP fund annually instead of quarterly; amend KRS 342.265 to conform; repeal KRS 337.200 and 337.994 pertaining to performance bonds for wages from employers engaged in construction work or the severance, 4

preparation, or transportation of minerals, KRS 338.051 abolishing the OSH Standards Board, and KRS 342.235 relating to travel expenses for the Department of Workers' Claims staff.
 Feb 15, 2018 - introduced in House
 Feb 20, 2018 - to Economic Development &
 Feb 23, 2018 - posted in committee
 Mar 01, 2018 - reported favorably, 1st reading, to Calendar; floor amendment (1) filed
 Mar 02, 2018 - 2nd reading, to Rules
 Mar 07, 2018 - posted for passage in the Regular Orders of the Day for Thursday, March 8, 2018

AN ACT relating to the Kentucky Occupational Safety and Health Standards Board and declaring an emergency. HB 314 (As Introduced)

Mar 01, 2018 - enrolled, signed by Speaker of the House; enrolled, signed by President of the Senate; delivered to Governor

Oil & Gas Hearings

AN ACT relating to oil and gas hearings. SB 249
 Amend KRS 13B.020 to exempt oil and gas hearings held under KRS Chapter 353 from the hearing requirements of KRS Chapter 13B, except for hearings conducted by the Kentucky Oil and Gas Conservation Commission under KRS Chapter 353.500 to 353.720; of the Act; Mar 01, 2018 - introduced in Senate
 Mar 09, 2018 - 3rd reading, passed 38-0 with committee amendment (1)
 Mar 12, 2018 - received in House
 Mar 13, 2018 - to Natural Resources & Energy (H); posted in committee
 Mar 15, 2018 - reported favorably, 1st reading, to Consent Calendar
 Mar 16, 2018 - 2nd reading, to Rules

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Property Redevelopment

AN ACT relating to property redevelopment. HB 370 (BR 1528) - R. Mills, J. Gooch Jr., M. Castlen Update of "Voluntary Environmental Remediation" Rules. Amend KRS 224.1-512 to redefine "remediation" and "site"; amend KRS 224.1-514 to update the application requirements, application fee, and public notice; replace a covenant not to sue with a corrective action liability agreement; amend KRS 224.1-516 to reduce the time for cabinet to notify applicant on the status of the application from 45 days to 30 days and update requirements for resubmittal; amend KRS 224.1-520 to specify the statutes that will be used to evaluate whether the site characterization plan is in conformity; delete detailed requirements for the corrective action plan; amend KRS 224.1-522 to include public comment period before taking action on the corrective action plan; delete the time frames associated with additional information submittals; amend KRS 224.1-524 to require notice for public comment to days after submitting corrective action plan and post signage; amend KRS 224.1-526 to delete language referring to reimbursement of costs for cabinet site investigation; change covenant not to sue to corrective action liability agreement; require the corrective action liability agreement to run with the land; amend KRS 224.1-528 to delete cabinet withdrawal from negotiations from the list of final determinations; make conforming changes; repeal KRS 224.1-518.

Feb 14, 2018 - introduced in House

Mar 06, 2018 - 3rd reading, passed 93-0

Mar 07, 2018 - received in Senate

Mar 08, 2018 - to Natural Resources & Energy (S)

Mar 14, 2018 - reported favorably, 1st reading, to Consent Calendar

Mar 15, 2018 - 2nd reading, to Rules

State Tire Fund

AN ACT relating to revenue measures, making an appropriation therefor, and declaring an emergency. HB 366/FN (BR 1195) - S. Rudy, K. Fleming Amend KRS 224.50-868 to extend the new tire fee to July 1, 2020 HCS1 - Retain the original provisions; create new sections of subchapter 20 of KRS Chapter 224 to establish the Volkswagen Leverage Fund; amend KRS 224.50-868 to increase the new tire fee to two dollars (\$2) for each tire sold, impose the fee upon the retailer, and subject the fee to sales tax

Feb 14, 2018 - introduced in House

March 1, 2018; 3rd reading, passed 68-25 with Committee Substitute (1), committee amendment (1-title)

Mar 02, 2018 - received in Senate

Mar 06, 2018 - to Appropriations & Revenue (S)

Mar 15, 2018 - taken from Appropriations & Revenue (S); 1st reading; returned to Appropriations & Revenue (S)

Mar 16, 2018 - taken from Appropriations & Revenue (S); 2nd reading; returned to Appropriations & Revenue (S)

Other

AN ACT relating to mechanical systems. HB 307 (BR 1379) - DJ Johnson Amend KRS 236.060 to exempt compressed air receivers of 120 gallons or less from KRS 236.005 to 236.150; remove cryogenic service piping, hydrogen piping, piping associated with a pressure vessel for human occupancy, and refrigeration service piping in safety group from the list of exemptions of piping associated with boilers and pressure vessels in KRS Chapter 236.

Feb 05, 2018 - introduced in House

Feb 16, 2018 - 3rd reading, passed 84-0

Feb 20, 2018 - received in Senate

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Feb 21, 2018 - to Veterans, Military Affairs, & Public Protection (S)

Mar 15, 2018 - reported favorably, 1st reading, to Consent Calendar

Mar 16, 2018 - 2nd reading, to Rules - posted in committee

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