



Kentucky Legislative Report March 8, 2018 - Regular Session Update

Scott's Thoughts

We are coming down the home stretch of this session. We have passed the last days for legislation to be filed and can see the Bills that the Legislators will be focusing. The elephants in the room, the budget, pensions and workers compensation have garnered a lot of attention but there are also a few issues particularly in the areas of environment and health and safety that have been moving along almost unnoticed.

House Bill 370 is an attempt to make Kentucky's Voluntary Environmental Remediation Program (VERP) more user friendly. The bill changes the applicable fees, attempts to stream line the process and minimize the back and forth that has plagued the program since its inception. While the time frames contained in the Bill seem excessive, the intent of the legislation is good. I'm interested in seeing how this version will work. What is in place now doesn't work, this Bill has to be an improvement.

The Legislature is seeking to improve the transparency and administrative consistency in the Labor Cabinet's OSHA group. HB 382 removes the Division of Workers' Compensation Funds from the Department of Workers' Claims and removes the Occupational Health and Safety Standards Board. HB 314 abolishes the Occupational Health and Safety Board and places the Board's responsibility under the Office of the Secretary. This Bill has passed both Houses and is on the Governor's desk.

SB 249 makes the hearing process for the oil & gas industry more consistent with the rest of the Energy and Environment Cabinet. This Bill was part of a broad-based work group put together by Secretary Snively to review statutes and regulations that impact the oil & gas industry. I was part of this workgroup and I think this legislation will help both operators and the Cabinet move through administrative issues more efficiently.

HB 227, the Net Metering Bill at this date looks like a Christmas Tree, with 29 Amendments attached to the Bill. It has been sent back to the House Natural Resources & Energy Committee. It will be interesting to see if this Bill gets revived or it quietly passes away in Committee. If it can't get fixed, hopefully we will see something like it next session. Stay tuned.

The extension of the Tire Fund is moving along as part of HB366. Based on everything that is contained in the legislation, I don't foresee any problems with this moving through right now. Another Bill puttering right along is the Cabinet's reorganization bill. It's passed the Senate and has been received in the House.

The water well driller bill (SB 197) seems to be moving. It requires water well drillers to be certified. We are currently in an era of certifications. I'm not sure that certifying everyone really makes the world a better place. It does however generate fees.

Stay tuned! It looks like the excitement is just beginning. As usual, the end of the session is very interesting.

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

- Feb 05, 2018 - introduced in Senate
- Feb 06, 2018 - to Natural Resources & Energy (S)
- Feb 21, 2018 - reported favorably, 1st reading, to Consent Calendar with Committee Substitute (1)
- Feb 22, 2018 - 2nd reading, to Rules
- Feb 23, 2018 - posted for passage in the Consent Orders of the Day for Monday, February 26, 2018
- Feb 26, 2018 - 3rd reading, passed 37-0 with

Committee Substitute (1)

- Feb 27, 2018 - received in House
- Mar 05, 2018 - to Natural Resources & Energy (H)
- Mar 06, 2018 - posted in committee

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

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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)

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.

Feb 20, 2018 - floor amendments (23) filed to HFA 21, (24) filed to HFA 22, (25) filed to Bill, (26) filed to Committee Substitute

Feb 21, 2018 - floor amendments (27) filed to Bill, (28) filed to Committee Substitute, floor amendment (29-title) filed

Feb 27, 2018 - taken from the Orders of the Day; recommitted to Natural Resources & Energy (H)

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,

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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 & Workforce Investment (H)

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

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

AN ACT relating to the Kentucky Occupational Safety and Health Standards Board and declaring an emergency.

Amend KRS 12.020, 224.20-320, 336.015, 338.015, and 338.061 to abolish the Kentucky Occupational Safety and Health Board and give the Labor Cabinet secretary the board's authority; give the Labor Cabinet secretary authority to suspend or delay administrative regulations based on the actions of the federal government relating to a corresponding federal regulation; repeal KRS 338.051; EMERGENCY.

Feb 06, 2018 - introduced in House

Feb 07, 2018 - to Economic Development & Workforce Investment (H); posting waived

Feb 08, 2018 - reported favorably, 1st reading, to Calendar with committee amendments (1) and (2-title)

Feb 09, 2018 - 2nd reading, to Rules; posted for passage in the Regular Orders of the Day for Monday, February 12, 2018

Feb 12, 2018 - 3rd reading, passed 91-0 with

committee amendments (1) and (2-title)

Feb 13, 2018 - received in Senate

Feb 15, 2018 - to State & Local Government (S)

Feb 21, 2018 - reported favorably, 1st reading, to Consent Calendar with Committee Substitute (1)

Feb 22, 2018 - 2nd reading, to Rules

Feb 23, 2018 - posted for passage in the Consent Orders of the Day for Monday, February 26, 2018

Feb 26, 2018 - 3rd reading, passed 37-0 with Committee Substitute (1)

Feb 27, 2018 - received in House; to Rules (H)

Feb 28, 2018 - taken from Rules; posted for passage for concurrence in Senate Committee Substitute; House concurred in Senate Committee Substitute; passed 93-1

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.

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; amend KRS 353.060 to provide for petition and notice requirements for oil and gas hearings held by the Energy and Environment Cabinet's Office of Administrative Hearings relating to drilling near coal-bearing strata; amend KRS 353.200 to specify that the Department for Natural Resources may receive complaints of drilling or mining operations not conforming to orders of the cabinet's Office of Administrative Hearings; amend KRS 353.510 to define "notice"; amend KRS 353.590 to change the bond forfeiture process for noncomplying operators;

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provide that orders or final determinations under the section are subject to review under Section 11 of the Act; amend KRS 353.5901 to require the director to make a final agency determination with regard to a mediation plan between well operators and surface owners; provide that orders or final determinations under the section are subject to review under Section 11 of the Act; make conforming changes; amend KRS 353.620 to allow the director to determine whether a distance variance may be permitted for a well; provide that orders or final determinations under the section are subject to review under Section 11 of the Act; amend KRS 353.630 to change notice requirements relating to the pooling of oil and gas interests; provide that orders or final determinations under the section are subject to review under Section 11 of the Act; amend KRS 353.640 to change notice requirements for pooling orders relating to unknown or unlocatable owners; provide that orders or final determinations under the section are subject to review under Section 11 of the Act; amend KRS 353.645 to specify who interested persons are with regard to pooled oil and gas interests; provide that orders or final determinations under the section are subject to review under Section 11 of the Act; make conforming changes; amend KRS 353.700 to change the appeal process for final determinations made or orders issued under KRS Chapter 353; establish petition and hearing procedures; require the cabinet to promulgate administrative regulations to establish formal and informal hearing procedures; allow for appeal to Franklin Circuit Court of final orders issued by the secretary under the section; make conforming changes; amend 353.806 to provide that orders or final determinations under the section are subject to review under Section 11 of the Act; make conforming changes; amend 353.808 to change notice requirements for pool orders relating to

sequestration of carbon dioxide; provide that orders or final determinations under the section are subject to review under Section 11 of the Act.

Mar 01, 2018 - introduced in Senate

Mar 05, 2018 - to Natural Resources & Energy (S)

Property Redevelopment

[HB 370 \(BR 1528\)](#) - [R. Mills](#), [J. Gooch Jr.](#), [M. Castlen](#)

AN ACT relating to property redevelopment.

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 correction 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

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Feb 16, 2018 - to Natural Resources & Energy (H)
 Feb 21, 2018 - posted in committee
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 Mar 02, 2018 - 2nd reading, to Rules
 Mar 05, 2018 - posted for passage in the Regular Orders of the Day for Tuesday, March 6, 2018
 Mar 06, 2018 - 3rd reading, passed 93-0
 Mar 07, 2018 - received in Senate

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

Other

AN ACT relating to the use of and disposition of auxiliary containers.[SB 82/LM](#) (BR 1124) - [M. Wilson](#)

Create a new section of KRS Chapter 109 providing definitions of "auxiliary container" and "local government"; creates a new section of KRS Chapter 109 prohibiting local governments from adopting ordinances or regulations concerning the use, prohibition of, or taxes upon auxiliary containers; create a new section of KRS Chapter 109 exempting certain facilities and properties of local governments.

Jan 17, 2018 - introduced in Senate
 Jan 18, 2018 - to State & Local Government
 Feb 22, 2018 - reassigned to Economic Development, Tourism, and Labor (S)

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 07, 2018 - to Veterans, Military Affairs, and Public Protection (H)
 Feb 08, 2018 - posted in committee

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