



KENTUCKY YOUTH ADVOCATES



## 2008 Kentucky General Assembly Regular Session Legislation Impacting Children and Families

### **SUMMARY**

The 2008 Regular Session of the Kentucky General Assembly adjourned on April 15th. Legislators took action on a number of critical children's issues, including booster seats, dental check-ups and bullying. However, the legislature passed an austere budget bill, leaving many state agencies that serve children and families wondering how to cope with less revenue. In doing so, they missed an opportunity to make Kentucky's budget more structurally sound through moderate tax measures.

During the legislative session, there were 1,031 bills introduced – 256 in the Senate and 775 in the House. There were 583 resolutions introduced – 284 in the Senate and 299 in the House. A total of 1,614 pieces of legislation were filed with 180 bills and 11 resolutions passing. Seventeen (17) percent of bills introduced became law during this long budget session.

All new legislation passed during the 2008 session goes into effect on Tuesday, July 15 2008, as determined by the Attorney General's Office. The Kentucky Constitution states that new legislation becomes law ninety days after adjournment. There are three exceptions: appropriations bills; when an alternative effective date is contained in the bill; or if there is an emergency clause.

Several pieces of legislation that would have had great impact on the state budget did not make it to the Governor's office including legalizing expanded gambling and reforming the state pension systems.

House Bill 550 would have allowed expanded gambling at seven designated horse-racing tracks in the state and an additional five licenses for select non-track facilities. The potential annual estimated fiscal impact of expanded gambling would be about \$600 million annually.

House Bill 600 was an effort to reform the state's retirement systems that currently face a \$26.6 billion shortfall. Though the House and Senate negotiated up to and after the midnight deadline on the last day, the chambers failed to reach a compromise in time, raising the possibility of a special session to address the issue.

Many key pieces of legislation that passed were forwarded to the Governor during the very last days of the General Assembly. This included the budget and House Bill 608 which contains line-item water and sewer projects for coal and non-coal counties in Kentucky. Funding for the projects in non-coal counties will come from \$150 million in bonds transferred from the state's master tobacco settlement dollars, 25 percent of which are legislatively mandated to be spent on early childhood initiatives. Funding for projects in coal counties will come from \$75 million in bonds paid with coal severance revenue.

The Governor chose to make a point by not signing the state budget bill (HB 406). He also did not sign the legislative branch budget bill (HB 407). Instead he allowed both to pass into law without his signature. The Governor did line-item veto ten items in the budget bill, but the vetoes did not impact spending.

The Governor also vetoed House Bill 79 which outlined the state's \$3.8 billion two-year highway spending plan. This was a controversial decision as well, because, as a result, the Governor and the Secretary of the Transportation Cabinet will craft a revised highway plan outlining spending and priorities for road project. The Governor cited in his veto message that the Cabinet needed additional flexibility during this economic downturn. Senate President David Williams has since filed suit against Governor Beshear claiming the governor's veto is unconstitutional as the legislature did not specifically appropriate the funds.

## **THE STATE BUDGET**

The most important bill the legislature finalized was the Commonwealth's biennial budget. House Bill 406 sets out a \$19 billion spending plan for the next two years. With a significant decrease in projected revenues and no new taxes being introduced, a few unprecedented measures were taken by the General Assembly.

First, the General Assembly mandated that the Governor must find and make reductions of \$579 million over the course of the biennium through lapses and debt restructuring. The expected savings are to be found in the retirement and attrition of state employees; program efficiencies; and debt restructuring.

### **MANDATED EFFICIENCIES, LAPSES, & OTHER SAVINGS HB 406 - AS ENACTED by the KENTUCKY GENERAL ASSEMBLY**

	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>	<b>TOTAL HB 406</b>
Misc. Agency Budget Lapses	\$186,219,600	\$9,860,700	\$9,610,700	<b>\$205,691,000</b>
Lapses Due to Retirement Vacancies		\$85,000,000	\$85,000,000	<b>\$170,000,000</b>
Efficiencies & Debt Service Lapses		\$44,900,000	\$58,900,000	<b>\$103,800,000</b>
Debt Restructuring		\$50,000,000	\$50,000,000	<b>\$100,000,000</b>
<b>TOTALS</b>	<b>\$186,219,600</b>	<b>\$189,760,700</b>	<b>\$203,510,700</b>	<b>\$579,491,000</b>

Source: HB 406 FCCR

Second, the new budget requires a large number of fund transfers from agencies to the General Fund. What looks like a potential increase in funding for a program, most often ends up as only a vehicle for passing funds through a program's budget. In effect, many programs that appeared to receive increases actually received flat funding. For example, the General Assembly took tobacco funds meant to be delivered to health and early education programs, but instead passed the money through those programs to the General Fund. This is demonstrated in the KIDS NOW budget. Over the biennium \$12.5 million in tobacco funds were transferred through the department's budget to the General Fund to pay for other programs.

Over \$477.1 million in fund transfers occur in the biennial budget – funds eventually ending up in the General Fund. This includes \$301.7 million in FY 09, \$131.4 million in FY 10, as well as the \$44 million required for the current fiscal year 2008.

Third, the budget provides an unprecedented amount of discretion to the Secretary of the Cabinet for Health and Family Services (CHFS). Rather than finalizing how money should be spent and which programs will have to be cut in this tight budget, the General Assembly took an extraordinary step of

ceding legislative power and passing those decisions to the Cabinet Secretary. Throughout the month of May and into June, cabinet officials will be meeting to make determinations regarding how to fund programs with the limited resources provided.

The legislature did include some strict parameters on how the cabinet could finalize its budget. The General Assembly specified that, due to the budget crunch, the Secretary could not use any funds to expand services under the Kentucky Children's Health Insurance Program (KCHIP). While KCHIP will still provide health insurance to approximately 50,000 children who otherwise would go without in each year of the biennium, it will not allow the Cabinet to capture any of the additional 50,000 uninsured but eligible children in the state.

While the budget provides for fund transfers from Medicaid Benefits to KCHIP – so long as the program isn't expanded – the budget language also emphasizes the ability to charge co-payments for services. CHFS must now finalize their budget and submit it to the Office of the State Budget Director for approval.

## **BLUEPRINT FOR KENTUCKY'S CHILDREN**

Kentucky Youth Advocates supported several pieces of legislation this session, including the creation of a booster seat law, instituting regulations on payday lending establishments and enhanced dental screenings for children.

This year represented the first year of a new project – the Blueprint for Kentucky's Children – to craft a comprehensive and concise legislative agenda focused on children's issues. Dozens of children's advocacy groups joined together to identify priority areas and specific legislative efforts. This cohesive and concise agenda to advance the well-being of Kentucky's children was met with enthusiasm by legislators.

The Blueprint encompasses three areas: Safe and Healthy Families; Fair Opportunity for Every Child and Fair Deal for Working Parents. The priority action items for each area are identified below.

### ***Safe and Healthy Families***

#### **1) Improve access to KCHIP (Kentucky Children's Health Insurance Program)**

**House Bill 345** sought to remove barriers that keep kids from enrolling in KCHIP. It would have implemented 12-month continuous eligibility and presumptive eligibility for KCHIP families. It would have also eliminated the face-to-face interview requirement for enrollment and create an online application and renewal process.

#### **2) Improve access to dental care services for children**

Blueprint partners worked with the Kentucky Dental Association and others to pass legislation that would require children ages 5 and 6 to receive a dental screening or examination by January 1<sup>st</sup> of the school year. This year, **House Bill 186** passed and became a new law. As a companion to this effort, **House Bill 416** would have created a state-funded loan forgiveness program for dental providers serving Kentucky's underserved communities. This legislation passed out of the House Health and Welfare Committee late in the session.

### ***Fair Opportunity for Every Child***

#### **1) Ensure an integrated, birth-to-five, early learning system**

**House Bill 380** included many provisions that the Strong Start Kentucky Initiative recommended to expand pre-school programming. This bill would have expanded access to pre-kindergarten for children in families up to 200% of the federal poverty level and instituted a collaborative grant process that places pre-k programs in diverse community settings including child care and Head Start programs as well as schools.

## **2) Enhance resources for accessible child care services**

Legislative efforts to increase access to child care subsidies did not go very far this session due to state budget concerns, **House Bill 350** and **Senate Bill 128** were introduced to raise the income eligibility level of the Child Care Assistance Program to 165% of the federal poverty level, and allow families to stay on the program until they reach 200% of the federal poverty level. They also would have allowed a combination of school and employment hours to reach the 20 hours/week work eligibility requirement for parents using the Child Care Assistance Program.

### ***Fair Deal for Working Parents***

#### **1) Protect families from unreasonable payday lending practices**

While payday lending has been legal in Kentucky for ten years, this is the first legislation to ever clear a chamber that would place any oversight or regulation on the industry. **House Bill 500** would have implemented a database to allow the Office of Financial Institutions to monitor compliance with state law by payday lenders and borrowers. The bill would also eliminate the practice of immediately taking out a new loan after paying one off with a next day cooling-off period. Continued efforts are being made to inform and educate legislators about the payday lending industry and how important it is to address the issue for the long-term financial health of Kentucky's families.

#### **2) Provide targeted tax relief**

With the loss of revenue and no new revenues being implemented or tax reform being undertaken during the session, several bills targeting tax relief for the working poor were put on hold. Several bills would have established a state refundable earned income tax credit (**House Bills 566, 592 and 292**). A bipartisan measure implemented in twenty-two other states, an earned income tax credit provides a break on taxes for families just above the federal poverty line. The credit phases out as families work and earn more money. **House Bill 592** would have also created a work opportunity tax credit (WOTC) to encourage businesses to hire minorities, disabled, and other disadvantaged workers.

### **ADDITIONAL NEW LAWS OF INTEREST**

#### **Adoption/Foster Care**

**Senate Bill 132** makes technical corrections so that state law conforms with federal requirements related to **state-funded adoption assistance**.

**Senate Bill 188** permits the use of electronic records from court clerks to **citizen foster care review boards**.

#### **Child Support**

**House Bill 405** establishes an annual fee in child support collection actions. The new law strengthens collection efforts by increasing penalties for non-payment. Excessive nonpayment can lead to suspension of the debtor's driver's license. The bill also reduces the amount of child support owed necessary to begin the process suspending of the debtor's passport.

#### **Education**

**Senate Bill 2** creates an incentive program to increase the number of students taking advanced **math and science** courses in Kentucky. The bill creates a Science and Mathematics Advancement Fund that will pay student fees for AP and IB examinations, allow for the expansion of courses, and provide grants to school districts.

**Senate Bill 64** establishes a **certification incentive fund** for individuals pursuing Option 7 (University Institute Alternative Route to Certification) to teach math and science.

**Senate Bill 65** provides for a one-time election for public university personnel to participate in the optional retirement plan of the **Kentucky Teachers' Retirement System**.

**Senate Bill 68** creates an agreement among states to remove barriers to educational success imposed on **children in military families** because of frequent moves and deployments. The new law is to provide efficiencies in sending of educational records and enrollment information between districts and states. The new Interstate Commission will oversee the agreement and will be funded by the participating states.

**Senate Bill 75** will require that full-time students who initially enroll in college in the 2009-2010 academic year and thereafter only qualify for renewal of their **Kentucky Education Excellence Scholarships** beyond the second award period if they have at least a 2.5 grade point average and are on-track to graduate. If not, their funds will be cut in half.

**Senate Bill 86** specifies that the school **superintendent shall appoint the principal** after consultation with the school council if the vacancy is in a school that has an index score that places it in the lowest one-third of all schools below the assistance line and the school has completed a scholastic audit.

**Senate Bill 129** permits a local board of education to adopt a policy for distribution of **refurbished surplus technology to low-income students**.

**Senate Bill 131** would allow survivor benefits from the **Kentucky Teacher's Retirement System** for legally adopted children unless adoption proceedings were initiated at least 1 year prior to the death of the member. The provision would be retroactive to legally adopted children born after January 1, 1990.

**Senate Bill 157** moves the date of **notification of nonrenewal of employment** of certified school staff from April 30 to May 15. The bill also moves the date of salary notification for certified staff from 45 days before school starts to 45 days before school starts or June 15, whichever occurs earlier. It moves the date of notification of any reduction of duties of certified staff from 90 days before school starts to 90 days before school starts or May 15, whichever occurs earlier. It also moves the date of notification of nonrenewal of employment of classified school staff from April 30 to May 15. The new law reduces the time a teacher has to terminate his or her contract from 30 days prior to the first instructional day to 15 days prior to the first instructional day at a school to which the teacher is assigned.

**Senate Bill 192** specifies the purpose of **family resource and youth services centers**, eligibility criteria, and core components required for a family resource center and a youth services center. The bill also specifies that a funded center may remain eligible until the percent of the student body eligible for free or reduced school food is below 20% for five consecutive years. The bill also prohibits abortion counseling or referrals.

**House Bill 607** allows a five-year **statement of eligibility for teaching** to be issued to a veteran who has completed a total of ten years of active duty service, ten years of service officially credited toward armed services retirement, or ten years combination of such service.

**House Bill 640** permits a supplemental grant program managed by the Cabinet for Health and Family Services to fund employment of a physician or nurse in a **family resource or youth services center**.

**House Bill 655** requires that by September 30 of each year the secretary of the Transportation Cabinet report data related to providing **transportation for nonpublic school pupils** to the Interim Committee on Appropriations and Revenue.

**House Bill 734** authorizes the **growth nickel** that was originally authorized by the 2003 budget and provides that levy of the growth nickels are not subject to recall or voter approval. The bill also includes equalization funding for the growth nickel as well as equalization funding originally included in the 2005 and 2006 budgets. The bill also expands authorization for school districts impacted by the Base Realignment and Closure (BRAC).

## **House Joint Resolution 6**

House Joint Resolution 6 will require the Department of Education to develop a curriculum guide for schools that may be used to teach about the Holocaust as an example of genocide.

## **Health**

**Senate Bill 118** removes the sunset clause that requires all public and private primary schools to obtain a **current immunization certificate for hepatitis B** for any child enrolled as a regular attendee in the sixth grade. The bill also sets out new definitions for prescription drug distributors and requires the Board of Pharmacy to promulgate regulations.

**House Bill 139** permits a person who is 16 years of age to **donate blood** with the written consent of the person's parent or legally authorized guardian. The bill was crafted to help address blood shortages.

## **Juvenile Justice**

**House Bill 384** establishes within the Unified Juvenile Code requirements for the **detention of status offenders**. The bill clarifies that young people who are victims of child abuse and neglect be identified as "nonoffenders" and never held in secure detention or in a juvenile holding facility. The new law also provides that certain alcohol offenses committed by a person under age of 18 shall be a status offense and under jurisdiction of the juvenile session of District Court or the family division of Circuit Court.

## **Safety**

**Senate Bill 13** provides that the **testimony of a child victim or witness**, while being exempt from attendance at trial, can be called during the course of the trial to give additional testimony under the same circumstances as with any other recalled witness.

**Senate Bill 151** prohibits law enforcement officers or state prosecutors from requiring the **victim of a sexual offense** to submit to a polygraph examination as a condition precedent to the investigation or prosecution of an alleged sexual offense.

**Senate Bill 120** requires that a child under age 7 between 40 and 50 inches in height be secured in a child **booster seat**. Requiring booster seats will reduce injuries and deaths from motor vehicle crashes, the leading cause of deaths among children over age 1. The bill also requires that a courtesy warning be issued until 2009 for a first violation of the booster seat requirement and that the \$30 fine be waived if the defendant purchases a booster seat and shows proof.

**House Bill 91** sets out language to address **bullying** in schools. The bill requires school districts to establish policies and procedures for dealing with disruptive and disorderly behavior, including harassment, intimidation, or bullying of another student.

**House Bill 211** includes a variety of measures aimed at protecting children from child abuse. HB 211 will broaden Kentucky's child sex abuse laws while increasing penalties for abusers and those who fail to report abuse. The bill will include older children under state laws that protect minors from first-degree sexual abuse by raising the age of children covered by the law from 12 to 16, or 16 to 18, if the perpetrator is in a position of trust or authority.

## **Medicaid**

**Senate Bill 149** clarifies **Medicaid coverage** for therapeutic food, formulas, supplements, and low-protein food products prescribed by a physician for metabolic or genetic conditions.

**House Bill 259** establishes the **Kentucky Long-Term Care Partnership Program**, upon approval of a Medicaid waiver, to disregard assets, resources, and estate recovery requirements of the Medicaid program in a \$1 to \$1 amount. The program would be jointly administered by the Office of Insurance and the Department for Medicaid Services.

### **Mortgages/Financing**

**House Bill 471** will require revolving credit plans offered by **industrial loan companies** to be in an amount larger than \$7,500; increase from \$15 to \$25 the bad check charge and from \$20 to \$25 the over-the-limit fee charged by industrial loan companies in connection with revolving credit plans. It permits an industrial loan company in any extension of credit to charge a bad check charge of \$25 rather than \$15, a credit investigations charge of \$1.50 rather than \$1 for each \$50 of the principal amount of the loan, an alternative to the default charge of \$15 rather than \$10 and deletes the requirement that certain information be included in the annual report filed with the Office of Financial Institutions.

**House Bill 552** provides extensive updates to Kentucky's **mortgage laws**. The bill establishes a Kentucky Homeownership Protection Center by the Kentucky Housing Corporation.

The bill includes new requirements to make sure homeowners can afford to repay "High Cost Home Loans." It also limits prepayment penalties, so borrowers can more easily shop their way out of a bad deal, and sets new standards to make sure mortgage brokers work in the best interests of consumers.

### **BILLS OF INTEREST THAT DID NOT PASS**

**Casino Gambling: House Bill 550** was Governor Beshear's legislative proposal for expanded gambling. **House Bill 550** was the Constitutional amendment containing the proposed ballot language, and **House Bill 537** was the enabling legislation should the referendum pass. The proposal would have allowed expanded gambling at seven horse-racing tracks and an additional five licenses for gambling facilities at non-track facilities.

**Cigarette Tax Increase: House Bill 443** would have raised the cigarette tax to 70 cents, which would have greatly improved health outcomes of Kentuckians, while providing much needed revenue to the state.

**Combined Reporting: House Bill 332** would require combined reporting for a unitary business. Multistate corporations legally reduce their taxes by several means. One method is by shifting income among related corporate entities residing in different states. Corporations can lessen their tax burden by shifting income from an entity residing in a state with a high corporate tax rate to a related corporate entity residing in another state with a lower tax rate or no corporate tax. Combined reporting would require related corporate entities to file a single tax return, disallowing corporate entities the ability to leverage assets to minimize income taxes. The proposed change would have added between \$100 and \$200 million in revenue annually.

**Financial Literacy: House Bill 189** would have required the Kentucky Department of Education to develop and implement the Kentucky Financial Literacy Program and to adopt curricula and guidelines for the program. The bill would also have established the Kentucky financial literacy trust fund within the State Treasury. **HB 51** would have required public postsecondary institutions to provide new undergraduates with information regarding credit cards and debt management.

**Immigration: House Bill 304** would have permitted Kentucky law enforcement agencies to enter into agreements with the federal government to allow local law to enforce immigration laws. The bill would have made it a felony to use a false identity to claim and obtain legal status. Local jails would have been required to identify and report undocumented aliens and the Kentucky Office of Homeland Security would take on many new roles of enforcing federal immigration laws in the state. The bill would have sanctioned employers who get public money who knowingly hire illegal aliens.

**Multistate Tax Compact: House Bill 256** would adopt the Multistate Tax Compact. The purpose of the compact is to facilitate proper determination of state and local tax liability of multistate taxpayers and avoid duplicative taxation. It also facilitates convenience and compliance in filing tax returns and tax administration generally. Twenty states have adopted the compact.

**Payday Lending: House Bill 500** would have established a state database for tracking payday lending in Kentucky. The bill would also have established a next day waiting period before taking out another payday loan.

**Physical Activity in School: House Bill 34 and Senate Bill 17** would have required increased physical activity in schools.

**Public Pension: House Bill 600** was the vehicle for proposals to fix the state's retirement systems. The state retirement systems face a \$26.6 billion shortfall with actuaries predicting that the system will be defunct in 14 years. The state's retirement systems face increasing trouble as a result of many factors including: expanded benefit enhancements without the corresponding funding allocation to cover the new benefits, significant annual increases in health care costs, and inadequate returns on investments. The bill was alive until the last minutes of the session.

**Sexual Predators: House Bill 367** would have protected children from online sexual predators and created the crime of "cyberstalking" in Kentucky. The bill would have imposed greater penalties on predators soliciting children for sexual purposes online, made rules easier to enforce, and required sex offenders to register their internet identities with authorities.

**Tax Reform: House Bill 262** was the Kentucky Economic Justice Alliance (KEJA) revenue enhancement package that included implementing a state refundable earned income tax credit to assist working-poor families. Other measures in the bill included decoupling Kentucky's Estate Tax from the federal tax; adjusting taxes on income above \$75,000 to 7 percent and incomes above \$90,000 to 8 percent; and extending sales taxes on selected services. These proposals would raise an estimated \$350 million in revenue annually.

**Utility Gross Receipts Tax: House Bill 257** would have imposed a statewide utility gross receipts tax for schools. This bill would have replaced the existing authorization for individual school district levies – removing the district's option to levy the tax and set the rate.

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*Kentucky Youth Advocates is a non-partisan, non-profit, children's advocacy organization. KYA represents a voice for Kentucky's most precious asset – its youth. We believe that Kentucky's youth deserve the opportunities and resources necessary to ensure their productive development and health.*

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