RECEIVED AND FILED
DATE April 25, 2014
4:02pm
ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY K. Adler

COMMONWEALTH OF KENTUCKY
OFFICE OF THE GOVERNOR

STEVEN L. BESHEAR
GOVERNOR

700 CAPITOL AVENUE
SUITE 100
FRANKFORT, KY 40601
(502) 564-2611
FAX: (502) 564-2517

VETO MESSAGE FROM THE GOVERNOR OF THE COMMONWEALTH OF KENTUCKY REGARDING HOUSE BILL 301 OF THE 2014 REGULAR SESSION

I, Steven L. Beshear, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto the following part:

Page 9, line 20, delete "Prior to April 1, 2015,".
Page 9, line 21, after "$2,500,000", delete the rest of the line.
Page 9, line 22, delete "pursuant to KRS 42.4592(1)(a) and (b)", and after "reimburse", delete the rest of the line.
Page 9, line 23, delete "Government Economic Development Fund".
Page 9, line 25, after "Arena.", delete the rest of the line.
Page 9, line 26, in its entirety.
Page 9, line 27, delete "made prior to April 1, 2015, then ".
Page 10, line 3, after "42.4592(1)(a) and (b).", delete the rest of the line.
Page 10, lines 4 through 9, in their entirety.

I am vetoing this part because it imposes an unnecessary deadline on the Lexington-Fayette Urban County Government and could cause some of the future bonds sold by the Commonwealth for the Rupp Arena renovation project to be taxable instead of tax-exempt. The Mayor of the Lexington-Fayette Urban County Government has publicly committed to repaying the $2,500,000 that was appropriated for the planning and design of the renovation of Rupp Arena by the General Assembly in the 2012-14 budget as the project proceeds, and this acknowledgement is retained by my action. However, the setting of a specific deadline date for the repayment is premature because the timing of the repayment is contingent on further actions that still need to take place to fund the project. The provision to credit $2,500,000 during fiscal year 2014-15 from the General Fund Surplus or the Budget Reserve Trust Fund to the Local Government Economic Development Fund is also retained.

This the 25th day of April, 2014

Steven L. Beshear, Governor

GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2014 REGULAR SESSION

HOUSE BILL NO. 301

AS ENACTED

TUESDAY, APRIL 15, 2014

---

1 AN ACT relating to fiscal matters.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 154.60-010 is amended to read as follows:

4 As used in this subchapter:

5 (1) ***"Authority" means the Kentucky Economic Development Finance Authority;***

6 ***(2) (a)*** "Average hourly wage" ***means the per-hour wage earned by a full-time***

7 ***employee, including wages, tips, overtime, bonuses, and commissions, as***

8 ***reflected on the employee's federal form W-2 wage and tax statement;***

9 ***(b) "Average hourly wage" does not include employee benefits as defined in***

10 ***KRS 154.32-010, including health insurance and reimbursements***[~~has the~~

11 ~~same meaning as in KRS 154.28-010~~];

12 ***(3)***[~~(2)~~] "Base employment" means:

13 (a) For the ***first application***[~~initial year~~] for which credits are ***approved***[~~claimed~~],

14 the number of full-time employees employed on ***the day prior to the hire date***

15 ***of the new employee filling the earliest eligible position identified on the***

16 ***application***[~~December 31 of the base year~~]; and

17 (b) For subsequent ***applications, the***[~~years, the greater of:~~

18 ~~1. The~~] number of full-time employees employed on ***the day prior to the***

19 ***hire date of the new employee filling the earliest eligible position***

20 ***identified on the initial approved application***[~~December 31 of the base~~

21 ~~year~~] plus each eligible position for which a credit has been

22 ***approved***[~~claimed under KRS 141.384; or~~

23 ~~2. The number of full-time employees employed on December 31 of the~~

24 ~~prior year~~];

25 ***(4)***[~~(3) "Base year" means the later of the first full year of operation of a small~~

26 ~~business or the year that begins on or after January 1, 2009, and before January 1,~~

27 ~~2010;~~

1 ~~(4) "Creates and fills" means establishes a new eligible position and hires a full-time~~
2 ~~employee and replaces that employee within thirty (30) days if the employee ceases~~
3 ~~for any reason to be employed by the employer;~~
4 ~~(5)~~] "Eligible position" means each position that:
5 (a) Is filled by a full-time employee and that increases the total employment of the
6 small business above its base employment; and
7 (b) Carries ***an average***[~~a base~~] hourly wage of no less than one hundred fifty
8 percent (150%) of the federal minimum wage;
9 ***(5)***[~~(6)~~] "Full-time employee" means a person employed by a small business for at
10 least ***an average of*** thirty-five (35) hours per week and subject to the state tax
11 imposed by KRS 141.020;
12 ***(6)***[~~(7)~~] "Qualifying equipment or technology" means equipment or technology that
13 has been approved by the Division of Small Business Services; and
14 ***(7)***[~~(8)~~] "Small business" ***means any business entity organized for profit, including a***
15 ***sole proprietorship, partnership, limited partnership, corporation, limited liability***
16 ***company, joint venture, association, or cooperative, that has fifty (50) or fewer***
17 ***full-time employees at the time it applies***[~~has the same meaning as in KRS 154.12-~~
18 ~~325~~].
19 ➔Section 2. KRS 154.60-020 is amended to read as follows:
20 (1) The[~~ Kentucky Economic Development Finance~~] authority shall develop a small
21 business development credit program in consultation with the Division of Small
22 Business Services to assist new or existing small businesses operating in the
23 Commonwealth. The nonrefundable credit shall be allowed against the taxes
24 imposed by KRS 141.020 or 141.040, and 141.0401. The ordering of credits shall
25 be as provided in KRS 141.0205.
26 (2) The authority shall determine the terms, conditions, and requirements for
27 application for the credit, in consultation with the Division of Small Business

1 Services, subject to the provisions of subsection (3) of this section. The application
2 shall contain identification information about the number of eligible positions
3 created and filled, a calculation of the base employment of the small business~~[for~~
4 ~~each year from fiscal year 2009-2010 and forward]~~, verification of investment of
5 five thousand dollars ($5,000) or more in qualifying equipment or technology, and
6 other information the authority may specify to determine eligibility for the credit.
7 (3) (a) The maximum amount of credits that may be committed in each fiscal year by
8 the~~[Kentucky Economic Development Finance]~~ authority shall be capped at
9 three million dollars ($3,000,000).
10 (b) ***In order to be eligible to receive final approval for a credit, a small business***
11 ***shall:***
12 ***1. Create and fill one (1) or more eligible positions over the base***
13 ***employment; and***
14 ***2. Invest five thousand dollars ($5,000) or more in qualifying equipment***
15 ***or technology;***
16 ***within a six (6) month period.***
17 ***(c) Each eligible position that is created and filled shall be maintained for***
18 ***twelve (12) months. If a full-time employee filling a newly created eligible***
19 ***position ceases to be employed by the small business for any reason, that***
20 ***employee shall be replaced within forty-five (45) days in order for the***
21 ***eligible position to maintain its eligible status, in addition to meeting all***
22 ***other applicable requirements.***
23 ***(d)***~~[1.]~~ A small business shall ***apply for credits within twenty-four (24) months***
24 ***after meeting the earlier of:***
25 ***1. The employment requirement of paragraph (b)1. of this subsection; or***
26 ***2. The investment requirement of paragraph (b)2. of this subsection***~~[not~~
27 ~~be eligible to apply for credits and receive final approval for the credits~~

1 ~~until one (1) year after the small business:~~
2 ~~a. Creates and fills one (1) or more eligible positions over the base~~
3 ~~employment, and that position or positions are created and filled~~
4 ~~for twelve (12) months; and~~
5 ~~b. Invests five thousand dollars ($5,000) or more in qualifying~~
6 ~~equipment or technology~~].
7 *(e)*[~~2.~~] The small business shall submit all information necessary for the[
8 ~~Kentucky Economic Development Finance~~] authority to determine credit
9 eligibility for each year, and the amount of credit for which the small business
10 is eligible.
11 *(f)*[~~(c)~~] The maximum amount of credit for each small business for each year
12 shall not exceed twenty-five thousand dollars ($25,000).
13 *(g)*[~~(d)~~] The credit shall be claimed on the tax return for the year during which
14 the credit was approved. Unused credits may be carried forward for up to five
15 (5) years.
16 ➔SECTION 3. A NEW SECTION OF SUBCHAPTER 60 OF KRS CHAPTER
17 154 IS CREATED TO READ AS FOLLOWS:
18 ***This subchapter shall be known as the Small Business Tax Credit Program.***
19 ➔Section 4. KRS 141.384 is amended to read as follows:
20 (1) As used in this section, "small business" has the same meaning as in ***Section 1 of***
21 ***this Act***[~~KRS 154.12-325~~].
22 (2) (a) For taxable years beginning after December 31, 2010, a small business may be
23 eligible for a nonrefundable credit of up to one hundred percent (100%) of the
24 Kentucky income tax imposed under KRS 141.020 or 141.040, and the
25 limited liability entity tax imposed under KRS 141.0401.
26 (b) A small business that is subject to the tax imposed by KRS 141.020 or
27 141.040 and that has tax credits approved under Subchapter 60 of KRS

1 Chapter 154 shall apply the credits against the income tax imposed by KRS
2 141.020 or 141.040 and against the limited liability entity tax imposed by
3 KRS 141.0401, with the ordering of credits as provided in KRS 141.0205.
4 (c) A small business that is a pass-through entity not subject to the tax imposed
5 by KRS 141.040 and that has tax credits approved under Subchapter 60 of
6 KRS Chapter 154 shall apply the credits against the limited liability entity tax
7 imposed by KRS 141.0401, and shall also distribute the amount of the
8 approved tax credits to each partner, member, or shareholder based on the
9 partner's, member's, or shareholder's distributive share of income as
10 determined for the year during which the tax credits are approved, with the
11 ordering of credits as provided in KRS 141.0205.
12 ➔Section 5. KRS 132.200 is amended to read as follows:
13 All property subject to taxation for state purposes shall also be subject to taxation in the
14 county, city, school, or other taxing district in which it has a taxable situs, except the class
15 of property described in KRS 132.030 and the following classes of property, which shall
16 be subject to taxation for state purposes only:
17 (1) Farm implements and farm machinery owned by or leased to a person actually
18 engaged in farming and used in his farm operation;
19 (2) Livestock, ratite birds, and domestic fowl;
20 (3) Capital stock of savings and loan associations;
21 (4) Machinery actually engaged in manufacturing, products in the course of
22 manufacture, and raw material actually on hand at the plant for the purpose of
23 manufacture. The printing, publication, and distribution of a newspaper or operating
24 a job printing plant shall be deemed to be manufacturing;
25 (5) (a) Commercial radio and television equipment used to receive, capture, produce,
26 edit, enhance, modify, process, store, convey, or transmit audio or video
27 content or electronic signals which are broadcast over the air to an antenna;

1 (b) Equipment directly used or associated with the equipment identified in
2 paragraph (a) of this subsection, including radio and television towers used to
3 transmit or facilitate the transmission of the signal broadcast, but excluding
4 telephone and cellular communications towers; and
5 (c) Equipment used to gather or transmit weather information;
6 (6) Unmanufactured agricultural products. They shall be exempt from taxation for state
7 purposes to the extent of the value, or amount, of any unpaid nonrecourse loans
8 thereon granted by the United States government or any agency thereof, and except
9 that cities and counties may each impose an ad valorem tax of not exceeding one
10 and one-half cents ($0.015) on each one hundred dollars ($100) of the fair cash
11 value of all unmanufactured tobacco and not exceeding four and one-half cents
12 ($0.045) on each one hundred dollars ($100) of the fair cash value of all other
13 unmanufactured agricultural products, subject to taxation within their limits that are
14 not actually on hand at the plants of manufacturing concerns for the purpose of
15 manufacture, nor in the hands of the producer or any agent of the producer to whom
16 the products have been conveyed or assigned for the purpose of sale;
17 (7) All privately owned leasehold interest in industrial buildings, as defined under KRS
18 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt
19 statutory authority under the provisions of KRS Chapter 103, except that the rate
20 shall not apply to the proportion of value of the leasehold interest created through
21 any private financing;
22 (8) Tangible personal property which has been certified as a pollution control facility as
23 defined in KRS 224.1-300;
24 (9) Property which has been certified as an alcohol production facility as defined in
25 KRS 247.910;
26 (10) On and after January 1, 1977, the assessed value of unmined coal shall be included
27 in the formula contained in KRS 132.590(9) in determining the amount of county

1 appropriation to the office of the property valuation administrator;
2 (11) Tangible personal property located in a foreign trade zone established pursuant to
3 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the
4 regulations of the United States Customs Service and the Foreign Trade Zones
5 Board;
6 (12) Motor vehicles qualifying for permanent registration as historic motor vehicles
7 under the provisions of KRS 186.043. However, nothing herein shall be construed
8 to exempt historical motor vehicles from the usage tax imposed by KRS 138.460;
9 (13) Property which has been certified as a fluidized bed energy production facility as
10 defined in KRS 211.390;
11 (14) All motor vehicles:
12 (a) Held for sale in the inventory of a licensed motor vehicle dealer, including
13 motor vehicle auction dealers, which are not currently titled and registered in
14 Kentucky and are held on an assignment pursuant to the provisions of KRS
15 186A.230;
16 (b) That are in the possession of a licensed motor vehicle dealer, including
17 licensed motor vehicle auction dealers, for sale, although ownership has not
18 been transferred to the dealer; and
19 (c) With a salvage title held by an insurance company;
20 (15) Machinery or equipment owned by a business, industry, or organization in order to
21 collect, source separate, compress, bale, shred, or otherwise handle waste materials
22 if the machinery or equipment is primarily used for recycling purposes as defined in
23 KRS 139.010;
24 (16) New farm machinery and other equipment held in the retailer's inventory for sale
25 under a floor plan financing arrangement by a retailer, as defined under KRS
26 365.800;
27 (17) New boats and new marine equipment held for retail sale under a floor plan

1 financing arrangement by a dealer registered under KRS 235.220;
2 (18) Aircraft not used in the business of transporting persons or property for
3 compensation or hire if an exemption is approved by the county, city, school, or
4 other taxing district in which the aircraft has its taxable situs;
5 (19) Federally documented vessels not used in the business of transporting persons or
6 property for compensation or hire or for other commercial purposes, if an
7 exemption is approved by the county, city, school, or other taxing district in which
8 the federally documented vessel has its taxable situs;
9 (20) Any nonferrous metal that conforms to the quality, shape, and weight specifications
10 set by the New York Mercantile Exchange's special contract rules for metals, and
11 which is located or stored in a commodity warehouse and held on warrant, or for
12 which a written request has been made to a commodity warehouse to place it on
13 warrant, according to the rules and regulations of a trading facility. In this
14 subsection:
15 (a) "Commodity warehouse" means a warehouse, shipping plant, depository, or
16 other facility that has been designated or approved by a trading facility as a
17 regular delivery point for a commodity on contracts of sale for future delivery;
18 and
19 (b) "Trading facility" means a facility that is designated by or registered with the
20 federal Commodity Futures Trading Commission under 7 U.S.C. secs. 1 et
21 seq. "Trading facility" includes the Board of Trade of the City of Chicago, the
22 Chicago Mercantile Exchange, and the New York Mercantile Exchange;
23 (21) Qualifying voluntary environmental remediation property for a period of three (3)
24 years following the Energy and Environment Cabinet's issuance of a No Further
25 Action Letter or its equivalent, pursuant to the correction of the effect of all known
26 releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum
27 products located on the property consistent with a corrective action plan approved

1 by the Energy and Environment Cabinet pursuant to KRS 224.1-400, 224.1-405, or
2 224.60-135, and provided the cleanup was not financed through a public grant
3 program of the petroleum storage tank environmental assurance fund;
4 (22) Biotechnology products held in a warehouse for distribution by the manufacturer or
5 by an affiliate of the manufacturer. For the purposes of this section:
6 (a) "Biotechnology products" means those products that are applicable to the
7 prevention, treatment, or cure of a disease or condition of human beings and
8 that are produced using living organisms, materials derived from living
9 organisms, or cellular, subcellular, or molecular components of living
10 organisms. Biotechnology products does not include pharmaceutical products
11 which are produced from chemical compounds;
12 (b) "Warehouse" includes any establishment that is designed to house or store
13 biotechnology products, but does not include blood banks, plasma centers, or
14 other similar establishments;~~[and]~~
15 (c) "Affiliate" means an individual, partnership, or corporation that directly or
16 indirectly owns or controls, or is owned or controlled by, or is under common
17 ownership or control with, another individual, partnership, or corporation***;***
18 ***and***
19 ***(23) Recreational vehicles held for sale in a retailer's inventory***.
20 ➔Section 6. Prior to April 1, 2015, the Lexington-Fayette Urban County
21 Government shall remit to the Commonwealth a payment of $2,500,000 to be distributed
22 pursuant to KRS 42.4592(1)(a) and (b). This payment shall serve to reimburse the Local
23 Government Economic Development Fund for the moneys that were transferred pursuant
24 to 2012 Ky. Acts ch. 144, Pt. I, A., 13., (30) and used by the Lexington-Fayette Urban
25 County Government for the planning and design of the renovation of Rupp Arena. If the
26 payment directed from the Lexington-Fayette Urban County Government above is not
27 made prior to April 1, 2015, then $2,500,000 shall be transferred from the General Fund

1 Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705)
2 to the Local Government Economic Development Fund to be distributed pursuant to KRS
3 42.4592(1)(a) and (b). If the Lexington-Fayette Urban County Government does not remit
4 the payment and an equal amount is transferred from the General Fund Surplus Account
5 (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) to the Local
6 Government Economic Development Fund, then at such time that bonds are issued for the
7 Rupp Arena project by the Commonwealth, and before any funds are expended for the
8 project as authorized, $2,500,000 shall be returned to the General Fund Surplus Account
9 (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).
10 ➔Section 7. The provisions of 2014 Regular Session HB 235/EN are amended as
11 follows:
12 On page 202, after line 19, insert the following:
13 **006.** Knott County Fiscal Court - Carrie Park - Construction of Park Including
14 Purchase of Property
15 Restricted Funds -0- 100,000 -0-
16 **007.** Knott County Fiscal Court - Community Parks and Swimming Pool
17 Improvements
18 Restricted Funds -0- 100,000 -0-
19 **008.** Knott County Fiscal Court - Jail Bond Payment
20 Restricted Funds -0- 100,000 -0-
21 **009.** Knott County Fiscal Court - Sportsplex Bond Payment, Maintenance,
22 Equipment, Improvements, and Operations
23 Restricted Funds -0- 800,000 -0-
24 **010.** Knott County Fiscal Court - Tourism and Economic Development Projects
25 Restricted Funds -0- 50,000 -0-
26 **011.** Knott County Fiscal Court - Various Water and Sewer Projects
27 Restricted Funds -0- 350,000 -0-

1 **012.** Knott County Fiscal Court - Volunteer Fire Departments and Rescue Squads

2 Restricted Funds -0- 55,000 -0-

3 On page 188, after line 2, insert the following:

4 **010.** Clay County Board of Education - Capital Construction

5 Restricted Funds -0- 20,000 -0-

6 ➔Section 8. Section 5 of this Act shall apply to property assessed on or after

7 January 1, 2015.

Speaker-House of Representatives

President of Senate

Attest: Chief Clerk of House of Representatives

Approved Governor

Date