



COMMONWEALTH OF KENTUCKY
OFFICE OF THE GOVERNOR

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GOVERNOR

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Dear Honorable Members of the General Assembly:

I am writing to each of you today in order to clearly communicate, once again, the gravity of the pension crisis facing our universities, quasi-governmental agencies and their employees. I am grateful for your involvement as we continue to work on a solution to this mounting crisis.

The contribution that these agencies must make for their employees' retirement benefits will increase sharply on July 1st. This large and currently unbudgeted expense will place a financial strain on all of these organizations. For many of them the result will be bankruptcy, the elimination of their staff and loss of critical services to Kentucky communities.

I trust that you have closely read my reason for issuing a veto of House Bill 358 as well as the subsequent legal memorandum. It was for those reasons that, during the drafting of this current bill, we engaged the quasi-governmental agencies and universities that will be directly affected by this legislation. We have developed a solution that meets Kentucky's legal parameters and is consistent with past legislation that was supported three times in the past four years (with nearly unanimous support) by the General Assembly.

My administration has been very busy in the past few weeks preparing a wealth of information for review by the General Assembly. To date, every legislator has been given:

- A copy of the bill draft
- A summary of the bill
- A side-by-side comparison of the bill draft with existing law and with HB358 FCCR
- A 'frequently asked questions' document
- A legal memorandum explaining the legal concerns of HB 358 and legal precedent for the current draft
- A financial analysis
- An actuarial analysis

- A brief power point presentation
- A list of agencies and their unfunded liability
- A memo from KRS Executive Director outlining the problems with “employee choice”
- A letter from Kentucky’s regional universities expressing support for this bill
- A letter from Kentucky’s quasi-government agencies expressing support for this bill

All of this information has been in the public domain for the past week and all members of the General Assembly have now had ample time to review it.

It is my understanding that there are some legislators who do not wish to support any bill unless it contains a stipulation permitting an employer to exit the Kentucky Retirement System, but allowing Tier 1 and Tier 2 employees to make an individual decision to remain in the system. This concept is wrought with legal issues, a heavy financial cost and a crippling administrative burden. Please reference the letter you received this week from Dave Eager at KRS regarding this same issue.

Allowing an individual to remain in a plan even as their employer “opts out,” is also in stark contrast to existing bipartisan legislative precedent. In short, 2015 HB 62—which was signed by Governor Beshear and supported 96-1 in the House and 36-0 in the Senate—includes the same voluntary provision for employers to opt out as is provided in this current proposal. In 2017 and again in 2018, the General Assembly passed subsequent bills, with large bipartisan majorities, which also instituted the right for employers to implement new benefits in the future, by locking in the benefits already accrued by their employees.

Because of the legal uncertainty, massive bureaucracy needed to manage such an unwieldy process and the elimination of almost all financial relief to these struggling employers, we cannot support a provision that would allow individual employees of a nearly bankrupt employer to dictate higher costs by opting to remain in this system. Many employees would be let go because the employer could no longer meet payroll due to increased pension costs. This would make any discussion of benefits irrelevant, since the employees would no longer have a job.

In addition, it is also my understanding that there are some legislators who are requesting carve-out provisions to extend the accumulation of retirement benefits for small pockets of employees in their district to be included in the proposed bill, rather than to proceed with the current, legal cessation process. Such measures will likely require a budgetary appropriation and would be best suited for discussion and passage during the long budgetary session of the 2020 General Assembly. This bill allows these agencies to see what action the 2020 General Assembly may take before making a determination if they wish to elect one of the cessation choices.

I also want to make clear that I will not support merely another one-year rate freeze. Last year's freeze, coupled with another one-year rate freeze, will collectively result in more than \$250 million in underfunding! The days of "kicking the pension can down the road" are over.

I truly appreciate the difficulty in the decision before us. Future generations of Kentuckians are depending on us to do the financially responsible thing. We must protect the important services provided by the universities and quasi-government agencies, protect the promises made and earned by their employees and ensure the Kentucky Retirement System remains financially viable to deliver on these promises.

Our administration, with input from these "quasi" agencies, universities and a number of dedicated legislators, has worked hard to put together a bill that meets the parameters required by law and also provides the financial relief needed to continue uninterrupted services on July 1.

Our quasi-governmental agencies and universities face some brutally stark realities in the very near future. Please understand that failure of the legislature to pass this bill prior to July 1st, 2019, will lead to the discontinuation of many vital services and will result in many of the state employees, whom we are trying to protect, losing their jobs. This does not have to be the case. The ability to save these organizations from financial catastrophe now lies solely in the hands of the 138 legislators receiving this letter.

I am prepared to call members of the General Assembly into extraordinary session as soon as enough members of the House and Senate are publicly on the record stating they are prepared to take the action necessary to prevent the financial ruin of Kentucky's 118 quasi-governmental organizations and universities.

Sincerely,

A handwritten signature in blue ink, appearing to read "Matthew G. Bevin", with a stylized flourish at the end.

Matthew G. Bevin
Governor