SESSION SUMMARY
2007 Kentucky General Assembly
Prepared for the Kentucky Restaurant Association
(April 9, 2007)

The 2007 General Assembly has been labeled a Session of "missed opportunities" by several lawmakers and other state officials. Although more than 120 bills won final legislative approval, including legislation increasing the state's minimum wage, authorizing a new "restaurant only" option for alcoholic beverage sales within otherwise "dry" cities and counties and creating a new temporary food service permit for vendors at farmer's markets, lawmakers were not able to reach agreement on several major initiatives. On the Session's closing day, there was already speculation that Governor Ernie Fletcher may call a Special Session to address these issues.

Additional state spending, including restoration of more than $350 million for building projects previously approved by the General Assembly but vetoed by the Governor, failed to pass. No final action was taken on Senate proposals to address the unfunded liability in the retirement systems for teachers and state employees, to improve math and science education and to expand drug treatment programs. Of the 795 bills and approximately 100 substantive resolutions introduced during the 2007 Session, the "watch list" of issues affecting the Kentucky Restaurant Association and its members included more than 75 pieces of legislation. The association's legislative team was actively involved in a wide variety of issues affecting the daily operations of KRA members.

The listing below, arranged alphabetically by topic, provides a summary of activity on some of the key issues that were considered during the 2007 Session. The electronic version of the Session Summary includes links to the official summaries prepared by the legislative staff and allows you to access the full text of the legislation by way of links on the LRC website. You can also access the various sections by going to the topic area in the index below and hitting Ctrl + click.

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Alcoholic Beverage Sales Issues:

Local Option Elections: Kentucky voters will have additional options to consider regarding alcoholic beverage sales in their communities because **HB 138** was passed. The bill permits a precinct election in an area that contains a "qualified historic site" to determine whether by-the-drink sales at these facilities may occur. Eligibility is limited to a distillery designated as a national historic landmark or those historic sites that have dining facilities for at least 50 people and lodging on the premises.

In addition, the legislation creates another alternative for “restaurant only” sales in an otherwise “dry” community. The bill would allow a local option election in a city or county on the question of permitting by-the-drink sales at restaurants that seat at least 50 people and derive at least 70% of their revenues from the sale of food, provided sales are made only in conjunction with a meal purchase. The bill prohibits the restaurant from having a free-standing bar and from selling alcoholic beverages to anyone not purchasing a meal. State law already permits an election on the issue of alcoholic beverage sales in restaurants that have 100 seats and meet the 70% food sales standard.

Sunday Sales in Lexington/ Fayette County: The final version of **HB 138** clarifies the law regarding Sunday sales of alcoholic beverages in Lexington/ Fayette County. The bill authorizes the Urban County Council to set the hours in which Sunday sales can be made and to permit Sunday sales at all by-the-drink licensees, including bars, if the Council votes to do so.

Election Day Sales: Northern Kentucky State Representative Arnold Simpson (D-Covington) again introduced legislation to permit the sale of alcoholic beverages after noon on Election Day. **HB 341** was approved by the House Licensing & Occupations Committee but was never called for a vote by the full House.

Sales at State Parks: Another bill that died in the House after winning committee approval was **HB 391** that proposed to open the door for beer and wine sales at state parks. The bill, sponsored by House Speaker ProTem Larry Clark (D-Louisville), would have permitted a local option election in the precinct containing the park.

Corkage Fees: State Representative Bob Damron (D-Nicholasville) filed several floor amendments to **HB 138** including one that would have permitted a restaurant to allow its customers to bring their own wine and allow the restaurant to charge a “corkage fee” for serving the wine. After objections were raised on behalf of members of the Kentucky Restaurant Association, he withdrew the amendment before the bill was considered by the full House. Continuing discussions between restaurateurs and the Central Kentucky lawmaker are expected on this issue prior to the 2008 session.

Other Bills: Alcoholic beverage advertising will be permitted in circulars mailed or delivered directly to a consumer’s residence under terms of **SB 29** that was enacted this year. But the General Assembly did not approve **SB 107** that proposed to eliminate the requirement that all food served by an ABC-licensed caterer be prepared in a licensed commissary. The bill would have permitted food preparation at the site of the event being catered.

Consumer Protection Issues:

Gift Cards: Gift certificates and gift cards will not be subject to any rules beyond those enacted in 2006 since **HB 254** failed to win approval this Session. As introduced, the proposal imposed a number of restrictions including a requirement that issuers of gift cards obtain and keep certain information including the name and address of the person purchasing the card. Although the sponsor of the bill filed a floor amendment to delete all of the original provisions of the bill and to instead simply prohibit the issuer of a gift card from charging more than the face value of the card or from charging a fee for issuing the card, **HB 254** was not called up for a floor vote in the House.

Identity Theft: The identity theft package put forward by the Division of Consumer Protection in the Office of the Attorney General was not taken up for consideration by the Senate Judiciary Committee before the end of 2007 Session. **HB 7** included provisions requiring businesses and government agencies to take precautions to minimize the possibility of security breaches and to notify individuals whose personal information may have been subject to a breach. It also restricted the use and disclosure of Social Security numbers by both private businesses and public entities.

The bill that passed the House did not include language contained in laws passed in several other states that sets a standard for potential harm that triggers the breach notification. In addition, it contained a broader definition of “personal information” than used in most other states. **HB 7** also established criminal penalties, as well as a private cause of action, for “phishing” which occurs when the Internet is used to induce a person to provide information by representing that the requestor is another person. It also included a procedure for an ID theft victim to petition the Court for a determination of his status as a victim.

Price Gouging: Proposed changes to Kentucky’s price gouging law were adopted despite the controversy that erupted when unrelated provisions were added to the bill. The original provisions of **HB 228** specified that the restrictions on pricing contained in the current law apply only in the geographic area identified in the declaration of emergency. It also established a 30-day period following notification of its implementation in which the price restrictions would apply.

After passing the House 99-0, **HB 228** became a vehicle for legislation backed by some legislative leaders to allow the budget bill to be used to make permanent changes in the law. Early in the Session, House Appropriations & Revenue Chairman Harry Moberly (D-Richmond) introduced **HB 184** to ratify this practice as a response to a lawsuit filed after the 2006 General Assembly established new permanent statutory requirements in the budget bill. The media strongly criticized the proposal saying it violated the spirit of open government and the bill was withdrawn. But the Senate committee considering **HB 228** added provisions similar to those contained in the withdrawn House bill before approving the measure. The committee changes were later withdrawn when the full Senate acted on the legislation and the bill was delivered to the Governor on the final day of the 2007 Session.

Development & Growth Issues:

Financing for Local Development: Increased tax revenues generated by a commercial development may be earmarked to help fund projects across the Commonwealth as a result of the passage of **HB 549**. Tax increment financing (TIF) is designed to encourage public-private partnerships through which bonds could be issued to help finance community development projects and then repaid through increased tax receipts resulting from the project. **HB 549** creates five TIF programs based on the project size and which local or state tax revenues are being dedicated. One category specifically targeting financing for public infrastructure needed to support the development would require an investment of at least $10 million and a 20 percent limit on the project's total square footage that could be designated as retail space. The "Signature" category requires a $200 million minimum investment and the retail space in the project is also limited to 20 percent of its total size.

The impetus for the bill was the proposed Museum Plaza project in downtown Louisville. Controversy over the proposed use of increased bed tax revenues to help finance the project and the precedent it sets for expanded use of revenues generated by local lodging and restaurant taxes resulted in some changes to the original bill. In its final form, **HB 549** permits the use of room tax proceeds for TIF projects only in Louisville/ Jefferson County and only for projects for which an agreement is in place by January 1, 2008. No other project is expected to qualify to use the increased bed tax revenues. *(See Revenue & Taxation section for additional information on Local Taxation)*

Eminent Domain: A bill was introduced in the House to further restrict the use of eminent domain by local governments by specifically banning its use to clear blighted property. **HB 458**would also have required that any property condemned for a public purpose be put to use within three years or the previous owner be given the chance to repurchase the property for the amount he was paid. The bill was never considered in the House Judiciary Committee to which it was assigned.

Other Bills: Some changes to Kentucky's "brownfields" program to encourage cleanup and reuse of property with environmental problems were also approved this year. Among the revisions contained in **SB 82** is a provision allowing a person who purchases property on which a release had occurred without the new owner's knowledge to qualify for remediation incentives.

Legislation was introduced but not adopted to require notification of the Kentucky Heritage Council prior to the alteration of any real property and prohibit issuance of a building permit until the Council verifies that the property contains no human remains or archaeological sites. Although the sponsor filed an amendment to limit its provisions to tracts of land containing at least 50 acres, **HB 118** was not heard in the House Local Government Committee to which it was referred.

Food Sales & Service Issues: *(Also see Alcoholic Beverage Sales and Revenue & Taxation Sections)*

Farmer's Markets: Vendors at a farmer's market may apply for a new temporary food service permit allowing them to serve prepared food under the provisions of a bill passed this Session. **HB 120** requires that an applicant for the new permit pay a fee of at least $50 and complete food safety training. The permit would allow operation no more than one day each week for any consecutive six-month period.

Bed & Breakfast Food Service: Operators of bed-and-breakfast establishments could have expanded their food service if **SB 37** had passed. The bill, which died in the Senate, allowed other meals, in addition to breakfast, to be served to guests and permitted a B&B to operate a tea room and provide catering services on its property.

General Business Issues:

Tort Reform: A proposal to amend Kentucky's Constitution to permit the legislature to limit damages in civil suits was introduced as **HB 300** by State Representative Joe Fischer (R-Ft. Thomas). The bill to open the door for tort reform in the Commonwealth met the same fate as similar proposals sponsored by Fischer and others, including Senate President David Williams (R-Burkesville), when it died in the House committee to which it was assigned.

Wrongful Death Suits: In the wake of the 2006 airline disaster in Lexington, **HB 403** was introduced by House Judiciary Chair Kathy Stein (D-Lexington) permitting a surviving spouse to sue for "loss of consortium". Under current state law, a civil action can be filed for a child's loss of the companionship of a parent but claims by a spouse are not permitted. After intense lobbying by family members of plane crash victims, the bill passed the House but it was not acted on by the Senate. Another bill was introduced to extend the statute of limitation for wrongful death actions from one to five years but **HB 434** was not considered by the House Judiciary Committee.

Other Bills Affecting Civil Actions: Legislation was approved to extend the $100 million cap on supersedeas bonds to all civil judgments that are appealed. When **HB 426** takes effect, the bond cap will no longer apply only to judgments for punitive damages. Several other bills were introduced in the Senate and the House to change state law concerning civil lawsuits but none of them won final approval during the 2007 Session. The Senate passed **SB 75** permitting civil actions against state agencies, including appeals, to be initiated in Circuit Courts outside Frankfort but the bill died in the House. Legislation introduced in 2006 reappeared this Session as **SB 192**. The bill would have permitted a plaintiff in a civil suit to amend his original complaint to include third parties named by the defendant as causing or contributing to the injury. State Representative David Floyd (R-Bardstown) introduced **HB 29** to permit the reduction of costs awarded or even denial of recovery to a party that the Court determines unreasonably delays resolution of the claim in a civil case. Neither **SB 192** nor **HB 29** was acted on by the Judiciary Committee in their respective chambers.

Small Claims Court: The House Judiciary Committee endorsed an increase in the jurisdictional limit of Kentucky's small claims court when it approved **HB 198**. But opposition to the increase to $3,000, up from the current $1,500 limit, drew opposition from many district judges and the bill was returned to committee for further study rather than receiving a floor vote in the House.

Billboards: Once again, legislation was introduced this Session to allow the owner of a legally erected billboard to secure a permit from the state Transportation Cabinet that would authorize the pruning or trimming of trees, shrubs and other vegetation obscuring the sign. But **SB 155**, the 2007 billboard bill introduced by State Senator Ernie Harris (R-Crestwood), died without being voted on by the full House.

School Start Date: Western Kentucky State Representative Mike Cherry (D-Princeton) filed **HB 95** at the urging of tourism groups in his area to prohibit a school district from setting the first day of school for students before the 4th Monday in August. The bill was assigned to the House Education Committee but was not discussed.

Construction Contracts: Contracts for schools and other public buildings, as well as construction contracts involving a private property owner, will be required to contain certain provisions concerning payment terms as a result of the passage of **HB 490**. Specifically, the bill requires that a contractor be paid within 30 days after an undisputed request for payment is received. It also requires that a contractor pay subcontractors within 15 business days of receiving payment from the contracting entity. **HB 490** mandates that interest, computed at the rate of 12% per year, be added to the outstanding balance of any late payment and sets limits on the amount of retainage a property holder may withhold to insure completion of the work. In addition to the mandatory provisions, the bill prohibits the inclusion of any contract language waiving the contractor's right to sue or to recover costs for construction delays within the control of the property owner.

Felony Records: Legislation allowing a person convicted of a Class D felony to petition to have his criminal record expunged after five years was not approved during the 2007 Session. House Majority Whip Rob Wilkey (D-Scottsville) introduced **HB 16** on the first day of this year's Session and although it won approval in the House Judiciary Committee in early February, the bill was not called up for a vote by the full House. Instead, its provisions were added to **SB 34**, a bill sponsored by Senate Majority Leader Dan Kelly (R-Springfield) to increase the options for drug treatment for persons charged with a crime. The Senate bill was one of the measures that died as a result of the standoff between House and Senate leaders. Since Wilkey has introduced the expungement bill in previous Sessions, it is likely the issue will reappear in the 2008 Session.

Penalties for Robbery/ Theft: Bills were introduced in both the House and Senate imposing harsher penalties if the victim of a robbery is a bank or credit union. **SB 139** passed the Senate but died in the House Judiciary Committee along with its companion bill, **HB 84**. Legislation was also filed on the opening day of the 2007 Session to increase penalties for theft of property valued at $10,000 or more but **HB 81** was withdrawn in early February. The current dollar threshold for a theft to be considered a Class D felony in Kentucky, punishable by up to five years' incarceration, is $300. **HB 81** proposed making the higher value theft a Class C felony.

Other Bills: Changes in Kentucky statutes relating to business entities will occur as a result of passage of **HB 334**. The changes include establishing uniform rules governing names for the various types of business entities and updating state law to reflect the current provisions of the Model Business Corporation Act.

Health Insurance Issues:

Mandated Benefits: As is the case every Session of the General Assembly, a number of bills were introduced in 2007 to require insurance coverage for a variety of medical conditions and treatments. This year's lists of proposed mandates included: contraceptive service (**HB 239**); chiropractic coverage at specific levels (**HB 352**); air ambulance services (**HB 377**); and prostate cancer screenings (**HB 506**). None passed. Additionally, a bill was introduced to require the state-subsidized health insurance program for small businesses (ICARE) to cover cancer screenings. An amended version of **HB 410** passed the House but died in the Senate Health & Welfare Committee.

Medical Malpractice Reform: Another perennial issue, a Constitutional Amendment allowing the General Assembly to place limits on medical malpractice awards, failed to pass again this Session. **HB 505** did not receive a hearing in the House Elections, Constitutional Amendments & Intergovernmental Affairs Committee.

Utilization Data Reporting: The General Assembly passed legislation to require insurers to provide utilization data to large employer groups. **SB 175** was amended to limit the number of reports required of an insurer to two per year. Kentucky law already requires insurers to provide utilization data to association-sponsored health plans for small businesses.

Universal Health Care Insurance / Single-Payor System: Two resolutions calling for a state study of the universal health care coverage were introduced in the House but not adopted. **HR 81** directed the Legislative Research Commission to look at the feasibility of providing health care to all Kentuckians while **HR 79** called for a study of establishing a single-payor state system for providing health care coverage.

Employer-Provided Coverage: Although bills were introduced in the 2006 Session to require large employers to spend a fixed percentage of their payroll to provide health insurance for their employees, the so-called "Fair Share" legislation was not introduced this year. Legislation introduced last year to require applicants for public assistance to identify their employers also failed to reappear.

Labor & Workforce Issues:

Minimum Wage/ Tip Credit: The state minimum wage rate will increase from $5.15 to $5.85 per hour in late June. Under terms of the legislation enacted this year, a second 70-cent increase will occur on July 1, 2008 when the hourly rate would increase to $6.55 and a third 70-cent bump, to $7.25 per hour, on July 1, 2009.

HB 305, the bill that state lawmakers approved, mirrors the proposed increases in the federal minimum wage included in legislation currently pending in Congress. Both the U.S.

House and U.S. Senate have approved legislation that includes the three-step increase to $7.25 in July 2009. However, they have not reached agreement on the amount of tax relief that will occur in tandem with the minimum wage hike so no final Congressional action has been taken.

The version of **HB 305** that received final approval by the 2007 Kentucky General Assembly differs markedly from the bill as it was introduced. The Kentucky Restaurant Association helped lead an effort to make state lawmakers aware of the devastating impact of the original bill that proposed an immediate increase to $7.00 per hour, annual adjustments based on the CPI and repeal of the tip credit. KRA's legislative team worked closely with House and Senate leaders to ensure that the state changes do not exceed the federal proposal. In a major victory for the association, the legislation that takes effect this summer no longer includes provisions eliminating the tip credit or indexing the state rate to the annual CPI.

Another bill proposing to limit the tip credit available to Kentucky employers also failed this session. As introduced, **HB 206** called for a cash wage for tipped employees equal to 60% of the minimum wage rather than the $2.13 hourly rate currently permitted under both state and federal law. The version of **HB 206** that was approved by the House Labor and Industry Committee required employers of tipped employees to pay a cash wage equal to 42 percent of the minimum wage rate. The 2007 Session ended without the bill being voted on by the full House.

Workers' Compensation: The association and other business groups scored a major victory in blocking a bill that would have dramatically changed Kentucky's worker's compensation law and exposed employers to additional litigation. **HB 398** would have allowed an injured employee to pursue civil action against an employer in a work-related injury claim arising from gross negligence, recklessness or the violation of a safety standard or regulation. The bill, which died in committee, would have pierced the "exclusive remedy" standard on which the workers' compensation system is based.

A change backed by the business community was also added to the sole workers' compensation measure that was enacted this Session. The amendment to **HB 296** establishes apremium reduction for employers who implement a drug-free workplace program. The bill's original provision to waive the surety requirements for public sector self-insureds that have taxing authority was also in the final version.

The Senate approved two other bills affecting workers' compensation but both measures died in the House. **SB 99** would have barred a workers' compensation claim if voluntary intoxication was a substantial contributing factor in an employee's injury or death while **SB 190** proposed creation of a procedure allowing independent contractors to obtain a certificate establishing their contractor status for workers' compensation purposes. The measure was designed to protect individuals and businesses that use independent contractors from exposure to injury claims.

The House Labor & Industry Committee approved bills raising the limit on attorney fees in workers' compensation cases from $12,000 to $20,000 (**HB 491**) and establishing a maximum attorney fee of up to $20,000 for medical disputes (**HB 495**) but neither passed the full House. No action was taken on **HB 516** that would have created a presumption that emergency workers who contract a communicable disease are considered "injured" for purposes of workers' compensation coverage. The bill is in keeping with "presumptions" that have been proposed, but not adopted, in previous Sessions for firefighters who have heart or lung problems.

Unemployment Insurance: The 2007 General Assembly passed **SB 171** extending the time for collection on unpaid Unemployment Insurance Trust Fund contributions, along with interest and penalties, from five to 10 years. Beginning July 1, 2008, a corporation that has been administratively dissolved will have to provide evidence it owes no money to the Fund before it can be reinstated by the Secretary of State under terms of the legislation approved this year.

Comparable Worth: The full House did not vote on **HB 219**, the "comparable worth" legislation approved by the House Labor & Industry Committee. The bill prohibits sex-based wage discrimination on jobs of "comparable worth." The bill defines the term as the value of work measured by the skill, effort, and responsibility usually required to perform the work but the subjectivity and litigation that could be expected to result led to the introduction of several floor amendments. Proposed changes included adding effort, experience and education as factors to be considered and requiring the use of binding arbitration to resolve disputes.

Immigration: Empowering local law enforcement officers to enforce federal immigration laws, requiring businesses contracting with state government to participate in a federal program for verifying the status of their employees and financially penalizing employers who hire unauthorized aliens were some of the proposals put forward this Session to address the issue of immigration. Although several bills were introduced, the only immigration related proposals to receive action were two House resolutions. **HCR 127** directed a study of the impact of non-U.S. citizen workers on Kentucky's labor market. The resolution which passed the House but died in the Senate, also suggested that potential use of the state's office in Guadalajara to address the issue of labor shortages in Kentucky be part of the study. A simple resolution (**HR 223**) calling for the legislative study was adopted by a voice vote in the House. The simple resolution has no force; it simply reflects the intent of the House.

Right to Work: State Representative Jim DeCesare (R-Bowling Green) again introduced legislation this year proposing to make Kentucky a "right to work" state by banning mandatory membership in a labor organization as a condition of employment. **HB 328** was never brought up for discussion in the House Labor & Industry Committee.

Regulatory & Licensure Issues:

HVAC Permitting & Inspection: A permit will be required for the installation of an initial HVAC system in buildings designed for human occupancy beginning July 1, 2008 under terms of legislation enacted this Session. **SB 10** also makes the installation subject to inspection to insure its safety. The bill also prohibits any local government that did not have a HVAC permitting or inspection program in place on January 1, 2007 from creating a program or imposing any additional requirements regarding HVAC installations or repairs.

Other Bills: Legislation passed the House to encourage the Governor to achieve gender equity on state Boards and Commissions through his appointments to these panels but **HB 4** was not acted on by the Senate. A proposal to create a uniform state building permit that a person would be required to obtain before beginning construction also failed. **HB 372** was not voted on by the House Local Government Committee. **HB 227**, calling for the elimination of the independent board that oversees Kentucky's economic development efforts, also failed to win approval this year. The Kentucky Economic Development Partnership was created in the early 1990s and the Cabinet Secretary is selected by and works for the panel. The proposal introduced by House Majority Whip Rob Wilkey (D-Scottsville) would have returned the agency to the same status as other state program Cabinets, giving the Governor authority to appoint the agency head.

Revenue & Taxation Issues:

Business Taxes: A variety of bills were introduced in the House this Session to modify the portion of the 2005 tax reform measure that bases business taxes on gross rather than net figures. During the June 2006 special Session, the Limited Liability Entity Tax (LLET) was created to replace the Alternative Minimum Calculation (AMC) that caused such an outcry fromKentucky businesses, particularly those in high-volume but low-profit sectors. Although lawmakers were able to provide relief to small businesses by exempting those with less than $3 million in gross receipts or profits from the tax and giving a reduction to those businesses below a $6 million threshold, tax liability under the new LLET is still calculated on gross numbers. Three proposals (**HB 87**, **HB 88** and **HB 119**) called for replacing the LLET with a flat $175 fee on limited liability entities beginning in the 2008 tax year. Two other measures (**HB 262** and **HB 292**) also called for modifying the AMC and LLET provisions of existing law. **HB 249** proposed to make the LLET refundable beginning in 2008 and removed the limitations on the use of net losses of affiliates in calculating corporate income tax. None of the measures received approval of the General Assembly.

Small Business Tax Credit: State Representative Tanya Pullin (D-Greenup) introduced legislation this Session establishing a "small business" tax credit for eligible small businesses. **HB 460** authorized the Kentucky Economic Development Finance Authority to establish a program to provide non-refundable tax credits to small businesses that increase the number of full-time employees on the payroll. The amount of the credit would be determined by the Authority but is limited to $25,000 per business each year. The bill capped the overall amount of the tax credit to $5 million annually.

In order to be eligible for the tax credit, a business must be independently owned and employ fewer than 150 full time equivalents or have less than $6 million in annual gross sales. The credit would be granted for each new full-time job created providing the position pays at least 75 percent of the average state weekly wage.

Despite the support of the association and the Small Business Caucus, **HB 460** died in the House Appropriations & Revenue Committee.

Streamlined Sales Tax Compliance: The 2007 General Assembly unanimously passed a bill to update Kentucky's sales and use tax laws to comply with the Streamlined Sales and Use Tax Agreement (SSUTA). **HB 360** makes Kentucky law conform to changes in the multi-state agreement that were adopted in December 2006.

Sales Tax Exemptions: Lawmakers introduced a number of proposed sales tax exemptions this Session but none received final action by the General Assembly. **SB 93** called for exempted fundraising activities by churches from the tax, while **HB 75** proposed to exempt prepared food sold by churches at fundraisers.

Local Taxation: Despite the final report of the Task Force on Local Taxation endorsing a Constitutional change giving the General Assembly more latitude to grant local government additional taxing authority, no legislation was introduced proposing to amend the Kentucky Constitution to remove the prohibition on local excise taxes, including local sales taxes. Section 181 of the current State Constitution limits the type of local taxes the legislature may authorize and prohibits the state from levying a tax on behalf of local governments.

Another legislative priority of the Kentucky League of Cities is changing state law to allow all cities in the Commonwealth to levy a local restaurant tax and to broaden the permitted uses of meals tax receipts but that issue also failed to surface in legislation considered this year. Under current law, only cities of the 4th and 5th classes may enact a local restaurant tax and the proceeds are required to be used for tourism promotion and development.

The issue of expanded use of local tourism taxes surfaced during the consideration of **HB 549** that established a tax increment financing plan for local development projects. *(See Environmental, Energy & Growth section for additional information on Financing for Local Development issue)*

Other Tax Measures: Legislators approved a bill to update the Kentucky income tax law to the Internal Revenue Code in effect on December 31, 2006. **HB 258** was amended to include a provision limiting deductions for dividends paid by closely held real estate investment trusts.

The General Assembly failed to consider a broad tax reform proposal introduced by State Representative Jim Wayne (D-Louisville). Among the provisions of **HB 411** was a section extending the sales tax to a wide variety of consumer and business services.

The legislature also failed to take up legislation introduced by State Representative David Floyd (R-Bardstown) to set up a new "tax-me-more" account in the state general fund. **HB 47**, among the most novel proposals this Session, would have allowed tax payers who believed that they were not paying enough taxes to make voluntary contributions to the account.

State Budget and Other Expenditures: **HB 1** restoring more than $350 million in funding for projects vetoed by the Governor last year, including construction projects at nearly all Kentucky's public universities, failed to win approval during the 2007 Session after the House refused to adopt a Senate proposal to bail out the pension funds for state employees and teachers. House leaders said more time was needed to thoroughly study the pension proposal and to review findings of a work group formed by Governor Fletcher to examine the retirement systems, including the rising costs of health insurance benefits for retirees. Meanwhile, Senate leadership refused to approve more bonded indebtedness to finance the previously approved projects until the $12 billion unfunded liability in the retirement system is addressed.

The Senate proposed to sell more than $800 million in bonds to shore up the retirement system and to revise the benefit plan for state employees hired after the plan is put in place. The Senate also put forward its own plan for an additional $100 million in state spending as an amendment to **HB 262**, legislation dealing with a wide range of state fiscal issues. The Senate authorized expenditures to construct an outdoor stadium and make other improvements at the Horse Park in preparation for the 2010 World Equestrian Games. The Senate amendment also included additional operating funds for six state agencies; $9 million to match federal funds for relocation of a runway at Bluegrass Airport and money needed to respond to problems associated with the Wolf Creek Dam. The airport funding was also added as a Senate amendment to **HB 284**, legislation titled "traffic safety" and dealing with seat belt violations. Neither bill was acted on when returned to the House for consideration of the Senate changes.

However, since the Session ended, the Governor has authorized the reallocation of money in the Commerce Cabinet budget to finance the design of the Horse Park stadium. He has also indicated his administration is researching other projects or areas that may qualify as "necessary government expenditures" which would allow him to redirect budgeted funds.

In his State of the Commonwealth speech in early February, Governor Fletcher endorsed reauthorizing funding for the projects he vetoed last year. He weighed in on the pension issue during the final days of the Session by meeting with House leaders to encourage them to take up the Senate proposal. He has publicly stated that he is considering calling a special Session of the legislature to address the financial condition of the retirement systems for teachers and state employees.