SESSION SUMMARY
2011 Kentucky General Assembly
Prepared for Members of the Kentucky Restaurant Association
(Finalized March 28, 2011)

Not only was this year's legislative session the odd-numbered year "short" session, the 2011 General Assembly was unusual in other ways as well. Breaking with tradition during the opening week that has historically been reserved for organizational activities such as leadership elections and committee assignments, the State Senate took action on several major issues during the four days the legislature met in early January. When lawmakers returned to Frankfort on February 1 for part two of the 30-day session, 12 bills had already passed the Senate and were awaiting House action.

In all, more than 650 bills were introduced during the 2011 Session and more than 100 won approval by both chambers. Enacted legislation of particular interest to members of the Kentucky Restaurant Association prevents "double dipping" by unemployment insurance claimants and avoids an administrative nightmare for businesses by conforming Kentucky's tax treatment of health insurance coverage for older children to the federal rules.

Of at least equal importance to those in the food service industry were several measures that failed to win final legislative approval. This list includes legislation that would have required restaurants to list the country-of-origin for fish and seafood they sell and a proposal to overhaul Kentucky's workers' compensation system that was projected to increase employer costs. Bills to establish a statewide smoking ban and to create a system for state and local enforcement of federal immigration laws also died.

The following summary, arranged alphabetically by issue area, provides a narrative regarding the activity on some of the major issues affecting the business community that were considered during this year's legislative session. The electronic version of the 2011 Session Summary includes links to the legislature's official website so you can easily access the complete summaries prepared by legislative staff and all action on the measures, as well as review the full text of individual bills and resolutions. Bills enacted during the 2011 Session will take effect on Wednesday, June 8 unless a specific effective date was included in the legislation or the legislation contained an emergency clause which makes it effective as soon as it is signed by the Governor.

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Alcoholic Beverage Sales Issues:

Election Day Sales: Representative Arnold Simpson (D-Covington) once again sponsored legislation to allow local officials to authorize Election Day sales of alcoholic beverages within their communities. However, as in previous sessions, it failed to be considered on the House floor. HB 299, which cleared the House Licensing & Occupations Committee in mid-February, proposed to authorize fiscal courts and city councils to enact an ordinance setting the hours for alcoholic beverage sales and deliveries during the time the polls are open for voting.

The bill Simpson sponsored this year would have affected more communities than his 2010 proposal which limited the expanded local authority to those counties with a population of at least 75,000. This year's legislation would have permitted fiscal courts and city councils in all counties containing a city of the first through fourth class, as well as Lexington and Louisville, to authorize Election Day sales.

Sampling on Retail Premises: Another alcoholic beverage issue that was debated in the 2010 Session resurfaced in 2011 as HB 11. Representative Susan Westrom (D-Lexington) reintroduced her proposal to revise Kentucky law relating to "tasting" events at which customers may sample products. Like last year's bill, HB 11 would have permitted the employees of manufacturers and wholesalers to conduct sampling events involving wine and distilled spirits at premises licensed for retail sales. The legislation also would have increased the number of samples allowed from two to three per day. The bill was not acted on by the House Licensing & Occupations Committee to which it was referred.

Penalties for DUI: Several bills were introduced this year to impose tougher penalties on persons convicted of driving under the influence but none were adopted. Two bills (HB 58 and SB 141) would have allowed judges to require first-time offenders to install an ignition interlock device on their vehicles while HB 31 proposed harsher penalties for repeat DUI offenders.

Wine Carry-In: Although no legislation was introduced during the 2011 Session, House Majority Caucus Chair Bob Damron (D-Nicholasville) has told KRA representatives he plans to address the issue in 2012 with a proposal to authorize restaurants to permit their customers to "carry in" wine. In the 2007 Session, Damron filed a floor amendment to a related measure that would have permitted but not required a restaurant licensed to sell alcoholic beverages to allow its customers to bring their own wine into the establishment and also authorize the restaurant to charge a "corkage fee" for serving the product.

Consumer Protection Issues:

Advertising Disclosures: Legislation was introduced but not enacted to add new provisions to Kentucky's consumer protection laws to require disclosure of all conditions or restrictions on the sale of consumer goods and services in any advertisement. HB 43 did not limit the disclosure mandate to print advertising but specifically included advertising “through any media.” The bill did make an exception for advertising containing the statement that “quantities are limited” if that was the sole restriction. The sponsor, Representative Melvin Henley (D-Murray), cited his own experience with a travel company as the impetus for the bill’s introduction when he presented testimony on HB 43 before the House Labor & Industry Committee in early February. The Kentucky Retail Federation's government affairs team expressed concern about the additional expense businesses would incur in advertising their products under the bill’s provisions. The committee did not vote on the measure.

BPA & Cadmium Restrictions: Representative Mary Lou Marzian (D-Louisville) filed two bills to ban or restrict the use of specific chemicals—bisphenol-A (BPA) and cadmium— in certain consumer products but both measures died in the original committee to which they were assigned. HB 223 proposed to ban the use of BPA in reusable food and beverage containers, as well as in containers for baby food and infant formula. A limit on the amount of cadmium that could be used in products designed for use by children under age 12 would have been set by the provisions of HB 443. The House Veterans, Military Affairs & Public Safety Committee did not take action on either bill.

Energy Issues:

Utility Regulation: Significant changes were proposed this year in the regulation of Kentucky utilities, including both energy and telecommunications providers. Under the present system, rate filings, as well as other issues such as requests to construct new facilities, are within the purview of the three-member Public Service Commission (PSC). Under current law, PSC appointments are made by the Governor. Three separate proposals were introduced this year by Eastern Kentucky lawmakers that focused on changing from an appointed PSC to one whose members are elected. The issue arose following a significant rate increase by the electric utility that serves most of Eastern Kentucky.

The legislation that was acted on but not ultimately approved was SB 151, introduced by Senator Ray Jones (D-Pikeville). As the bill was introduced, the PSC would be a seven-member panel whose members are elected, beginning in January 2013. The provisions of SB 151 called for one member to be elected from each of Kentucky’s six congressional districts and one member from the state at-large. The candidates for these posts would have to be at least 25 years old and have resided within the district they seek to represent for at least three years.

After concerns were raised by both environmentalists and members of the business community about the effect of changing to an elected commission, SB 151 was amended in the Senate Natural Resources & Energy Committee to direct a staff analysis of the pros and cons of electing PSC members with the results to be presented to the legislature by December 1, 2011. However, when the bill was considered by the full Senate in mid-February, it was the original bill rather than the version approved in committee that was acted on. The Senate passed the bill by a 29-5 vote.

When the legislation was taken up by the House Tourism Development & Energy Committee, that panel replaced its provisions with language of its own creating a six-member task force made up of three senators and three representatives to study issues surrounding utility rates. Not only would the panel look at potential expansion of the PSC size and election of its members, it would seek to identify factors driving rate increases and methods to manage these costs. The task force was directed to report its findings no later than December 15, 2011.

The full House approved the committee substitute by a vote of 48-46 after adding a floor amendment to include the issue of subjecting municipal utilities to PSC regulation to the topics the task force would address. The session ended without the Senate taking action to either approve or reject the House changes.

Clean Energy Mandate: A Louisville lawmaker, Democratic Representative Mary Lou Marzian, sponsored legislation this year to establish a Renewable Energy Portfolio Standard in Kentucky but no action was taken on HB 239. This session's proposal would have established a requirement that at least 2.25 percent of electricity sold in Kentucky in 2013 be renewable energy. The minimum percentage requirement would rise to 12.5 percent in 2021 and subsequent years and a mandate that at least one percent be solar energy would also be in place beginning in 2021.

Environment & Growth Issues:

Commercial Construction Loan Program: The House approved legislation creating a commercial building construction loan guarantee program but only after removing the funding mechanism originally contained in HB 407. Proposed by Representative Ruth Ann Palumbo (D-Lexington), the new program would guarantee up to 25 percent of a loan made by a private lender for a commercial building project. The original bill would have earmarked sales tax receipts from supplies purchased for the project to fund the loan guarantee program. HB 407 contained provisions limiting the term of the loan, setting both a floor and ceiling on the loan amount and ending the program in 2016. After passing the House, it was referred to the Senate Appropriations and Revenue Committee where it died.

Development Restrictions: Once again this session, Representative Reginald Meeks (D-Louisville) introduced legislation that would stymie building activity in the state in the name of historic preservation. HB 76 would have prohibited the issuance of a building permit until verification was made that the property contained no human remains. The bill, identical to proposals introduced in previous sessions, died in the House Judiciary Committee.

Clean Up Standards: Risk-based standards will be used to determine necessary environmental remediation with the passage of SB 70, legislation sponsored by Senator Bob Leeper (I-Paducah) that will become law in June. The bill requires that Kentucky use the Regional Screening Levels used by EPA's Region 3 rather than Region 9's Preliminary Remediation Goals.

Wastewater: A proposal to permit Jefferson and some of its surrounding counties to form a regional commission to deal with wastewater including storm water, was introduced as HB 26. Provisions limiting rate increases for sewer services were added before it won final legislative approval. Language was added by the Senate to HB 26 that would require fiscal court approval of any rate increase greater than five percent proposed by a sanitation district and also limit the frequency of rate increases to one per year. The House agreed with the Senate changes to the bill and it was signed by the Governor on March 17.

Food Sales & Service Issues:

Fish & Seafood Labeling: Legislation was introduced in the House to require country-of-origin labeling (COOL) of fish and seafood not covered by the federal COOL standards but the measure failed to win approval after objections were raised by KRA's government affairs team. HB 266 would have required restaurants to notify customers of the country of origin for all aquaculture products they sell by way of menu labeling or signage at the business. In addition, the bill contained provisions requiring all advertising to include the country of origin for these products and authorizing the state Department of Agriculture to institute recordkeeping requirements to establish an audit trail.

Several other states have enacted COOL requirements for catfish served in restaurants and other food service establishments. Representative Fred Nesler (D-Mayfield) has indicated he plans to work with the Kentucky Restaurant Association to try to craft legislation for consideration in the 2012 Session.

Restaurant Tax Authority: No legislation was put forward in the 2011 Session to authorize additional Kentucky cities to enact a restaurant tax or to allow broader use of the proceeds generated by local meals taxes permitted by current law. However, three Kentucky cities were reclassified this year which would allow them to levy a local restaurant tax. Existing statutes allow cities of the 4th and 5th class to enact a restaurant tax of up to three percent and the tax revenues are earmarked solely for tourism promotion and development. HB 183 changes the classification of Wurtland in Greenup County and Sadieville in Scott County from cities of the 6th class to 5th class. SB 76 reclassifies Pikeville from a city of the 3rd class to a 4th class city.

Statewide Smoking Ban: Following the enactment of local ordinances prohibiting smoking in several Kentucky communities, including Louisville and Lexington, Representative Susan Westrom (D-Lexington) introduced legislation creating a statewide smoking ban. HB 193 would have barred smoking in all enclosed spaces open to the public and in all workplaces in the state, as well as within a "reasonable distance" of the building entrances. The bill required posting of "No Smoking" signs and established monetary penalties for violations that would be levied on both the individual and the business. It also allowed local communities to adopt even more restrictive bans.

The bill was not acted on by the House Health & Welfare Committee but it is expected to be one of the issues that will resurface in the 2012 Session.

Childhood Obesity: Legislation creating a legislative Task Force on Childhood Obesity was approved by the 2011 General Assembly and signed by Governor Beshear on March 15. HCR 13, sponsored by Representative Addia Wuchner (R-Florence), establishes a 10-member panel to develop legislative strategies to address the problem of childhood obesity and to encourage healthy nutrition and increased physical activity among kids. The issues the task force is expected to address include higher nutrition standards in school and nutrition education both in the schools and in the community. The panel is charged with making its recommendations by the end of November for consideration in the 2012 Session.

General Business Issues:

One Stop Business Portal: Governor Beshear has signed legislation creating the framework for streamlining business interactions with state government. The bill (SB 8) sponsored by Senator David Givens (R-Greensburg), establishes a one-stop shop within state government for business licensing, fee collection and regulations. Under the provisions of SB 8, a prospective or existing business would be able to log on to a dedicated website and among other things register their business or file their annual report, sign up for unemployment insurance and ultimately acquire their professional or business license. In doing so, they will only need to fill in vital information once rather than multiple times on multiple forms. SB 8 passed both the House and the Senate without a dissenting vote.

Small Claims Court Jurisdiction: After more than 25 years, the dollar amount for which a civil action may be filed in small claims court will increase when SB 108 takes effect this summer. The Kentucky Retail Federation has been a leading advocate for an increase in the jurisdictional limit of the small claims division of district court since the forum provides an efficient and inexpensive way to resolve noncriminal cases. Neither the plaintiff nor the defendant is required to have an attorney although either is permitted to be represented by counsel if they choose. Since small claims courts were created in the mid-1970s, they have served to make the judicial system more available and understandable to the public, including small businesses.

KRF staff worked closely with Senator Jimmy Higdon (R-Lebanon), the bill's sponsor, and Representative Tom McKee (D-Cynthiana), who introduced a similar bill (HB 201) in the House, to pass this year's legislation. SB 108, which was signed by Governor Beshear on March 16, raises the maximum claim that can be handled in this forum from $1,500 to $2,500. It also increases the jurisdictional limit for civil cases that can be filed in District Court from $4,000 to $5,000.

There was clearly broad legislative support for increasing the ceiling on small claims court actions since SB 108 passed both chambers without a dissenting vote. In addition, three legislators besides Senator Higdon and Representative McKee also introduced bills to raise the limit. These lawmakers and their respective proposals are

Senators Julian Carroll (D-Frankfort), SB 87 and Dorsey Ridley (D-Henderson), SB 121 and Representative Steve Riggs (D-Louisville), HB 222.

False Claims Act: Two proposals aimed at addressing fraud in government contracts were introduced this session but fell victim to the political interplay between the House and the Senate. Patterned after the federal "false claims act," SB 11 and HB 4 proposed to allow third party "whistleblowers" to bring fraud claims against individuals and companies doing business with the state. The "whistleblower" would be allowed to file a lawsuit alleging fraud and if fraud were discovered or if the case was settled, the "whistleblower" would receive a portion of the recovery. SB 11 limited the scope of the claims to Medicaid only whereas HB 4 would have applied to anyone doing business with the state. Neither bill won final approval. A broad coalition of business and health care provider groups opposed the bills because they could create incentives for frivolous lawsuits to be filed against companies that do business with the state.

Discrimination: The 2011 General Assembly again saw the introduction of legislation to ban discrimination based on sexual orientation or gender identity. SB 98 and HB 106 essentially extended current civil rights' protections in these circumstances. Neither bill received a hearing in their respective chambers.

Civil Actions: Representative Mike Harmon (R-Danville) filed legislation to prohibit a private cause of action unless it was specifically authorized by statute. HB 406 was aimed at reducing the number of lawsuits. The bill never received a hearing in the House Judiciary Committee.

Business Organization Filings: The Governor has signed HB 331, legislation modifying the process and standards for business filings with the Secretary of State. The bill makes technical updates to the Kentucky Business Entity Filing Act that was enacted in 2010 and became effective on January 1, 2011.

Health Insurance Issues:

Mandated Benefits: A new trend in legislation mandating health insurance benefits is emerging in the Kentucky General Assembly. In the past, mandated benefit bills typically took the form of legislation requiring a health insurance policy to cover a specific service, condition or provider. In the last session and continuing this year, we have seen a shift to legislation that sets limits on copayments or sets specific reimbursement levels for certain health care services. Like the "traditional" mandated benefit bills, these measures have the potential to raise health insurance costs.

Chiropractic Services: Two bills dealing with chiropractic services were filed this Session but did not become law. SB 75 required insurers to set reimbursement rates for chiropractors at no less than the rates in effect on October 15, 2008. The bill passed the Senate and was amended in the House committee to delete the minimum reimbursement requirement and instead limit the maximum copayment that insurers could impose on chiropractic visits. The bill never came up for a vote by the full House. HB 230 contained the same limitation on copayments that was added to SB 75. It also died in the House.

Physical and Occupational Therapy Services: SB 112 and HB 350 both attempted to set maximum allowable copayments for therapy services but only the Senate bill was considered. SB 112 originally capped the maximum copayment at 20 percent but was amended in the Senate Banking & Insurance Committee to require that the copayment percentage be no greater than the copayment percentage for a physician office visit. The amended bill passed the Senate 30-6 and was later approved by the House by a 98-0 margin with one lawmaker abstaining. SB 112 was signed by Governor Beshear.

Response to Federal Health Care Reform: In response to national health care reform, a number of bills were introduced but not considered this year. HB 105, HB 170 and HB 285 were all similar proposals attempting to prohibit the state from complying with federal health care reform initiatives that require mandatory health insurance coverage.

Labor & Workforce Issues:

Immigration: While the broad issue of immigration was a much-debated issue this session, nothing ultimately passed the 2011 General Assembly. The Senate passed a broad immigration reform bill (SB 6) in early January. SB 6 was patterned after the controversial bill passed in Arizona last year. It allowed local and state law enforcement officials to enforce immigration laws but did not contain a specific state requirement that employers verify the immigration status of workers. In fact, an amendment was added in the Senate that provided a "safe harbor" for employers that inadvertently hired an illegal alien as long as the employer checked the proper documents. The House Local Government Committee held several hearings on the bill but did not bring the proposal up for a vote. The House had its own versions of immigration reform. HB 3 would have required anyone doing business with the state to verify the immigration status of workers by using the federal e-verify system. The bill would have applied not only to state contractors and subcontractors but also any business that supplied products or services to the commonwealth. HB 3 cleared the House but never received a hearing in the Senate. Another proposal offered in the House would have required the state to refuse to issue or to revoke the business or professional license of anyone hiring an illegal worker. HB 111 died without receiving a hearing in the House Labor & Industry Committee.

Health Insurance Premium Deductibility: The 2011 Kentucky General Assembly took action to bring Kentucky into conformity with the federal tax treatment of certain health insurance benefits. Lawmakers approved HB 255, legislation that would exclude health insurance premiums paid for coverage of older children (up to age of 26) from adjusted gross income. The bill has been signed by the Governor. Without the passage of HB 255, employers would have faced the burden of additional administrative costs in order to determine the value of benefits provided by parents to adult children. In the short term, employers would have been forced to reissue W-2 statements for tax year 2010. The bill's sponsor, Representative Arnold Simpson (D-Covington), worked closely with the Kentucky Restaurant Association and other business groups to ensure passage of this important piece of legislation.

Domestic Violence Orders Involving Employees: Both the House and Senate saw the introduction of legislation to permit dating partners (past or present) to obtain domestic violence protective orders (SB 49 and HB 35). Neither bill received final approval but HB 35 did pass the House before dying in the Senate Judiciary Committee.

School Schedules: A bill that would have legislated the earliest starting date for Kentucky schools failed to receive consideration by the 2011 Kentucky General Assembly. SB 31, sponsored by Senator Joey Pendleton (D-Hopkinsville), would have prohibited school districts from starting classes before the third Monday in August unless a waiver was obtained. If passed, the measure would have given employers who hire summer workers more staffing flexibility.

Unemployment Insurance: Since lawmakers passed significant unemployment insurance reform legislation in a special session in 2010, the issue was not expected to see a lot of activity in 2011. Nevertheless, two UI proposals were filed and one passed. The legislature approved HB 339 to prevent a person from being awarded unemployment benefits for a second time unless the worker has returned to work. The bill requires that a person return to work and earn at least five times his weekly benefit amount in the previous year in order to be eligible for a second round of UI benefits. Governor Beshear signed HB 339, which was sponsored by Representative Dennis Horlander (D-Louisville), on March 15. The other UI proposal dealt with military spouses who lose their job because of the reassignment of their spouse. HB 343 cleared the Labor & Industry Committee but died in the House after a hostile floor amendment was filed to the bill.

Workers Compensation: The 2011 session was an unusually quiet one for workers compensation legislation. Only one major piece of legislation was filed and it did not receive consideration. Senator Tom Buford (R-Nicholasville) introduced a comprehensive workers compensation proposal that included provisions to create a new level of disability classified as temporary partial, increase income benefits for injured workers and raise attorneys' fees. The bill also would have extended the period for reopening claims and would have limited ongoing payments for medical claims. The business community, including KRA, viewed SB 104 as being largely "unfriendly" to the state's employers. The bill never received a hearing in the Senate Judiciary Committee but the issue of workers compensation reform is expected to receive attention over the interim. Business groups, including KRA member companies, are already meeting to craft a pro-business approach to addressing the issue.

Right to Work: Representative Tim Moore (R-Elizabethtown) filed “right to work” legislation this session but, as in past sessions, the measure did not receive consideration. HB 345 would have prohibited union membership as a condition of employment.

Privacy & Security Issues:

Penal Code Changes: Following the recommendations of a Penal Code Task Force made up of representatives from all three branches of government, the 2011 General Assembly enacted significant changes to the state’s criminal laws. The special panel was charged with the responsibility of crafting statutory changes to curb the rising costs of the state’s prison system while making offenders responsible for their criminal behavior and also trying to reduce repeat offenses.

HB 463, introduced by Representative John Tilley (D-Hopkinsville) who co-chaired the task force along with Senator Tom Jensen (R-London), had all five members of the House Democratic leadership as well as other House members as co-sponsors. It passed the House in mid-February with only two dissenting votes before clearing the Senate on February 28 with only one Senator voting “no.” The Kentucky Retail Federation endorsed the reform bill that many labeled a “Smart on Crime” measure and testified in support of the legislation. It was signed by the Governor on March 3.

Many of its provisions focus on drug-related offenses and the bill draws a clear distinction between “possession” offenses for which a person may be eligible for probation or deferred prosecution if he or she enters a drug treatment program and “trafficking” crimes. The bill requires that some of the savings from reducing the prison population be redirected to evidence-based programs that are proven to reduce recidivism. Some of the savings are also earmarked to add additional probation and parole officers to handle an expected increase in caseloads.

HB 463 also makes the payment of restitution to crime victims, including businesses, a key element for offenders to avoid additional punishment. For example, a person on probation or parole who fails to keep up with restitution payments ordered by the court would be subject to more intensive supervision. Payment of restitution will also be a prequalification for early release from probation.

The reform bill permits police officers to issue citations for certain misdemeanors rather than making arrests and limits use of the PFO (persistent felony offender) law when higher penalties are already on the books for a second or subsequent violation of a specific law. It also calls for the development of sentencing guidelines for judges to use in determining a convicted person’s punishment in light of his risk to the community.

A provision added in the Senate reauthorizes the Penal Code Task Force to continue its work and develop recommendations for additional changes in Kentucky’s criminal laws prior to the 2012 Session. KRF staff anticipates that much of the discussion in the coming months will be focused on property crimes. There have been early indications that creation of a fifth class of felony offense (a Class E felony) with maximum penalties less than the one to five years currently set for Class D felonies will be considered. We also anticipate that the issue of allowing expungement of felony records will be part of the task force deliberations. (*See following subsection*)

Felony Expungement: Kentucky law currently allows for misdemeanor violations to be expunged five years after an offender has completed his sentence or his probation. This means these earlier crimes will not show up on a criminal background check. During the 2011 Session, bills were introduced in both the House and Senate (HB 246 and SB 159) to permit the expungement of some felony records under certain circumstances.

The House proposal would allow a person to petition the court for expungement of records related to a Class D felony offense or series of Class D felonies arising from a single incident 10 years after the person was convicted. The records related to certain crimes including sex offenses would not be eligible for expungement. The victims of the crime would have to be notified of the request and the date for the hearing. If the request was granted, the Court would order the records sealed. HB 246 also contained a retroactive provision which would permit expungement of records related to crimes committed prior to introduction of the bill.

The provisions of SB 159 were similar but not identical to the House legislation. The Senate bill would permit filing of a petition for expungement of Class D felony records five years after the offender completed his sentence or the conditions of his release.

Bills allowing felony expungements have been introduced in previous legislative sessions but like this year, no legislation has won final legislative approval. It is likely the issue will be a topic of discussion as the Penal Code Task Force continues its review of current criminal laws and suggests additional changes. (*See previous subsection*)

Regulatory & Licensure Issues:

Fire Codes: Legislation allowing local government to establish fire codes more stringent than the state code was introduced but failed to pass. HB 226 was designed to allow localities to require fire sprinklers in newly-constructed residences but its effects went much further. The bill would have permitted local governments to adopt more stringent codes for all types of construction including commercial. If passed, HB 226 could have resulted in a patchwork of local fire codes throughout Kentucky. The measure died in the House Local Government Committee.

Administrative Regulations: A proposal to delay the effective date of any regulation with a significant economic impact failed to receive a hearing in the House State Government Committee. HB 140 would have prohibited a regulation with an economic impact of a least $500,000 from going into effect until 60 days following the adjournment of the next regular session of the Kentucky General Assembly or until the legislature ratified the regulation.

Revenue & Taxation Issues:

Tax Reform: Prior to the session, legislative leaders in both chambers predicted that the General Assembly would not tackle any significant tax reform measures in 2011. These predictions came true although several measures were introduced.

The most interesting proposal was SB 1, a measure put forth by Senate President David Williams (R-Burkesville) who has previously suggested making Kentucky's tax system more consumption-based. The bill he introduced was not actually a tax reform proposal but rather created a mechanism to set the stage for tax reform in 2012.

SB 1 proposed to create the "Kentucky Council on Revenue Reform" made up of five economists, two certified public accountants, a property valuation administrator and a tax attorney. In addition there would be four nonvoting members including the Commissioner of Revenue, the deputy director of the Governor's Office of Economic Analysis and the co-chairs of the of the Interim Joint Committee on Appropriations and Revenue. The charge of the group was to examine Kentucky's state and local tax system and to make recommendations for reform to the legislature by November 2011. As part of its report, the panel would submit proposed legislation for a comprehensive revision of state and local revenue statutes.

The recommended legislation would have been automatically introduced in the 2012 Session and legislators could not make substantive changes to the proposal. Only an "up or down" vote on the recommendations would be permitted in both chambers. According to Frankfort veterans this was an unprecedented provision in a piece of legislation.

The bill was passed by the Senate by a vote of 25-13 during the first week of the session but failed to receive consideration in the House.

Two perennial comprehensive tax reform measures were introduced in the House but failed to receive serious consideration. Representative Bill Farmer (R-Lexington) filed HB 196 calling for a comprehensive overhaul of the state's tax system. The bill proposed to extend the sales tax to a wide range of services as well as to commercial lease payments. Farmer's bill also increased the sales tax rate from 6 percent to 7 percent and eliminated the personal and corporate income tax as well as the tax on limited liability entities. Representative Jim Wayne (D-Louisville) introduced HB 318, another tax reform proposal. Wayne's bill would have increased the cigarette tax, increased the maximum personal income tax rate and applied the sales tax to selected services, including commercial linen services. HB 318 also called for the creation of a state earned income tax credit.

Tax Credits for Employers: Two bills creating new tax credits for employers were filed this session but failed to pass. Representative Martha Jane King (D-Russellville) introduced HB 10 providing a tax credit to employers who contract with a nonprofit organization for services performed by blind or disabled persons. The so-called "Goodwill" bill cleared the House but died in the Senate Appropriations & Revenue Committee. Representative Tim Moore (R-Elizabethtown) filed a bill to create a tax credit for employers hiring new employees. HB 383 would have provided an income tax credit for employers who hired an unemployed individual between April 1, 2011 and April 1, 2013. The bill never received consideration by the House Appropriations & Revenue Committee.

Streamlined Sales and Use Tax Agreement: Kentucky will remain in compliance with the Streamlined Sales and Use Tax Agreement (SSUTA) as a result of the passage of HB 429. The measure was initiated by the Kentucky Revenue Department to make changes in Kentucky law to conform to recent changes in the SSUTA. Kentucky was among the first states in the nation to join the SSUTA, a multistate compact that sets up a nationwide mechanism for leveling the playing field in sales tax collection. The bill, sponsored by House Appropriations & Revenue Chair Rick Rand (D-Bedford), was signed by Governor Beshear.

Special District Taxes and Fees: Legislation that would have restricted the authority of special districts such as local health departments and sewer districts with regard to their taxing authority and ability to levy fees was introduced this session. The bill, sponsored by Senator Damon Thayer (R-Georgetown) proposed to require the approval of the local government's elected legislative body before new taxes or fees were adopted or existing ones increased. SB 153 was designed to place the ultimate authority to raise taxes in the hands of elected, rather than appointed, officials. The measure did not receive a hearing in the Senate State & Local Government Committee that Thayer chairs but it is likely to be a discussion topic in the interim.

Economic Development Initiatives: While a number of measures dealing with Kentucky's existing economic development initiatives were introduced this session, only one made its way to the Governor's desk. HJR 5, a resolution calling for a comprehensive study of the effectiveness of the state's current economic development activities, passed the General Assembly and was signed by the Governor. The study is scheduled for completion before December 1, 2011.

State Budget: Despite the recognition by both chambers of the need to address the Medicaid shortfall projected for the current fiscal year, the House and Senate were unable to reach agreement on the way to correct the problem. HB 305 failed to win final approval before the end of the 2011 Session and lawmakers were called back to Frankfort for a special session starting March 14. The issue was finally resolved but if the cost savings within the Medicaid program do not materialize at the level estimated by the Beshear administration, difficult budgetary decisions will have to be made during the 2012 Session.