

# Results for Business

What passed. What didn't. And what it means to your bottom line.



## Messy? You bet.

Some progress made but several key measures left unresolved

LEGISLATIVE SESSIONS ARE USUALLY MESSY, and this year was no exception. Before the first gavel fell, most observers predicted gubernatorial politics would cast a shadow on the session, and many predicted little would be accomplished. Despite this, the Kentucky Chamber approached the session with an aggressive agenda to advance Kentucky, and we were able to affect measurable progress in all five areas of the Chamber's strategic plan: improving the education attainment of Kentuckians at all levels, modernizing government, promoting wellness and healthy Kentuckians, preparing Kentucky to successfully compete in the global marketplace, and expanding Kentucky's role as an energy leader.

Significant legislation passed to address corrections reform, workplace wellness programs, health care taxes for business, and education management improvements. The legislature missed opportunities, however, to act on three pieces of legisla-

**The legislature missed opportunities to act on three pieces of legislation that were critical to Kentucky's business climate.**

tion that were critical to Kentucky's business climate: The Senate did not hear legislation to address the persistent dropout problem in Kentucky schools, and the House did not act on proposals filed to develop a more efficient tax code or to address Kentucky's \$28 billion unfunded pension liability. Rather than gathering around the table in search of a solution to these key issues, legislators stayed in their respective corners ... heels dug in deeply.

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The greatest success of this legislative session was the passage of HB 463, legislation designed to reform Kentucky's overcrowded and financially unsustainable prison system. This legislation addresses an area of exces-

sive spending identified by the Chamber's *Leaky Bucket* report in 2009. It will save the Commonwealth \$422 million over the next 10 years. At the same time, the bill will also protect the public and provide treatment for offenders whose drug addiction spurs their criminal behavior.

The most difficult issue addressed was how best to handle the \$166 million shortfall in the Medicaid budget. The governor and House of Representatives wanted to shift money from 2012 and fill the hole in next year's budget with projected savings raised from efficiencies; the Senate argued the only responsible way was to implement cuts across state government and replace those funds only if the savings could be realized.

The Medicaid debate grew contentious and ended with a special session and several line-item vetoes by the governor. In the end, the shortfall was addressed by shifting money from

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All in all, progress was made in 2011, but there's still much work to be done. The Kentucky Chamber has already begun developing our business agenda for 2012 and will continue to work on these issues during the interim.

Dave Adkisson  
President and CEO  
Kentucky Chamber



The Kentucky Chamber lobbying team works in Frankfort year-round to improve your business' bottom line. From left, Charles George, Dave Adkisson, Allyson Hamilton-McIntire, Chad Harpole and Bryan Sunderland.

## WORKING FOR YOU AT THE CAPITOL



### PRO-BIZ

During the 2011 General Assembly, the Kentucky Chamber fought to influence passage of several business-friendly bills:

SB 12 improves accountability in schools by allowing superintendents to play a greater role in principal selection.



SB 114 authorizes health benefit plans to offer incentives to members who participate in a voluntary health plan wellness program.



SB 108 saves court costs for small businesses and the court system by raising jurisdictional limits.



HB 255 alleviates administrative burdens for business by aligning Kentucky's health insurance tax exclusion law with that of the federal tax law.



### OUR MEMBERS SPEAK OUT

At the very least, SB 1 would have started an important discussion on how to create a more competitive and business-friendly tax code.

– John Chilton, Mountjoy Chilton Medley



### NO-BIZ

The Chamber also successfully blocked legislation that was bad for business and bad for Kentucky:

SB 151 would have changed the makeup of Kentucky's Public Service Commission by electing commissioners which would politicize the process of reviewing rate cases and potentially raise energy rates.



SB 45 and HB 281 would have raised health care costs by making pseudoephedrine a prescription drug.



HB 3, SB 6 and HB 111 would have created a patchwork of state and local immigration laws, thus increasing the administrative burden for employers.



### OUR MEMBERS SPEAK OUT

The proposal to elect Public Service Commissioners is a classic example of legislation that would have had serious unintended consequences for Kentucky and nearly all my clients. I commend the Chamber for being among the first to recognize the full scope of this legislation, and taking action to protect its members. The Chamber's opposition ultimately helped stop the bill before instability in Kentucky's utility rates could be created.

– Scott R. Smith, Senior Consultant, Smith Management Group



# How did the 2011 Kentucky General Assembly impact your business?

PRO-BIZ



Kentucky Chamber-supported, business friendly legislation.

NO-BIZ



Kentucky Chamber-opposed legislation would negatively impact business.



PASSED

Legislation enacted by both House and Senate; signed by governor.



FAILED

Legislation not passed. Details in italics.



## EDUCATION AND WORKFORCE DEVELOPMENT

### Responsible principal selection

SB 12 improves accountability in schools by allowing superintendents to play a greater role in principal selection. Just as managers are held accountable for the performance of their employees in the business world, superintendents are accountable for the success or failure of schools. *Enacted into law.*

PRO-BIZ



PASSED

### Raise the dropout age

HB 225 (and Special Session HB 2) would have phased in raising the mandatory school attendance age to 18, keeping students in school and working toward a diploma. *Passed the House, not considered by the Senate.*

PRO-BIZ



FAILED

### Early graduation

SB 69 would have allowed students who meet specific academic criteria to graduate high school early and attend a public two-year or four-year postsecondary institution. *Passed the Senate, not considered by the House.*

PRO-BIZ



FAILED

### Career pathways

SB 36 would have offered a career-based program of study for high school students, providing the business community with a more qualified workforce. *Not considered by the Senate.*

PRO-BIZ



FAILED

### Charter schools

SB 3 and HB 103 would have authorized the establishment of charter schools in the state which could help areas with low-performing schools. *SB 3 passed the Senate, not considered by the House; HB 103 not considered by the House.*

PRO-BIZ



FAILED

### Response to low-performing schools

HB 476 would have weakened the process used to turn around low-performing schools, impairing student learning. *Failed in the House Education Committee.*

NO-BIZ



FAILED



## HEALTH AND WELLNESS

### Chiropractic mandate

SB 75 would have increased health care costs, particularly on small business owners, by unbundling services and mandating higher payments to chiropractors. *Passed the Senate, not considered by the House.*

NO-BIZ



FAILED

### False claims

SB 11 and HB 4 would have expanded the scope of employer liability by allowing whistleblowers to file lawsuits in the name of the state and claim a bounty from any proceeds recovered. *SB 11 passed the Senate, not considered by the House; HB 4 passed the House, not considered by the Senate.*

NO-BIZ



FAILED

### Pseudoephedrine

SB 45 and HB 281 would have increased employee health care costs and employee absenteeism by requiring a doctor's prescription for common cold and allergy medications containing pseudoephedrine. *Not considered by the Senate.*

NO-BIZ



FAILED

### Health plan wellness programs

SB 114 authorizes health benefit plans to offer incentives to members who participate in a voluntary wellness program. *Enacted into law.*

PRO-BIZ



PASSED



## GOVERNMENT MODERNIZATION

### Corrections reform

HB 463 addresses the high costs of the state's corrections system, which was identified by the Chamber's *Leaky Bucket* report. HB 463 has the potential to save our state over \$422 million in the next decade without taking a soft approach to crime. *Enacted into law.*

PRO-BIZ



PASSED

### Jurisdictional limits

SB 108 raises the jurisdictional limits for the Small Claims Division of District Court from \$1,500 to \$2,500 and district court from \$4,000 to \$5,000. This bills enables businesses to recover modest claims in lower courts, saving both time and expense for small employers. *Enacted into law.*

PRO-BIZ



PASSED

### State employee pensions

SB 2 would have established a 401(k)-type retirement system for all new state employees, legislators and judges beginning July 1, 2012. *Passed the Senate; not considered by the House.*

PRO-BIZ



FAILED





## KENTUCKY COMPETITIVENESS

### Lawsuit lending

HB 412 was a veiled attempt to regulate the litigation financing industry, and would have encouraged more litigation and done little to protect consumers. *Passed the House, not considered by the Senate.*

NO-BIZ



### Workers' compensation

SB 104 would have made many changes to Kentucky's workers' compensation system by raising attorney fees, increasing the income for disability to 120% of average weekly wage, creating a new disability category (temporary partial), and increasing the employer liability for medical fees. *Not considered by the Senate.*

NO-BIZ



### Immigration

HB 3 and SB 6 would have made several changes to Kentucky's immigration laws, influencing how businesses document foreign workers. HB 3 would have required any employer doing business with the state to use the federal E-Verify system. SB 6 dealt with the powers of law enforcement and created penalties for aiding or harboring illegal immigrants. *HB 3 passed the House; not considered by the Senate. SB 6 passed the Senate, not considered by the House.*

NO-BIZ



### Tax reform

SB 1 would have created an independent panel of experts to recommend a new business-friendly tax code that supports growth and competitiveness. *Passed the Senate, not considered by the House.*

PRO-BIZ



### Business one-stop

SB 8 calls for the Kentucky Secretary of State to establish a "one-stop" electronic business portal to streamline information sharing among businesses and government agencies in the state. *Enacted into law.*

PRO-BIZ



### Health insurance tax exclusion

HB 255 allows state tax exclusions for health insurance premiums, most notably for adult children under the age of 27, which are excludable pursuant to the federal health care law. This legislation will both alleviate an administrative burden for Kentucky employers and lower the taxable wage base for employers. *Enacted into law.*

PRO-BIZ



### Interstate racing compact

SB 24 authorizes the state to join the Interstate Racing Compact, providing a leadership role for our signature horse industry to establish uniform racing and wagering rules. Kentucky is the first of six major racing states to join the compact. *Enacted into law.*

PRO-BIZ



### Economic development

HB 448 would have extended the Kentucky Investment Fund Act angel investor tax credit to individual investors, capping the credit at \$4 million. HB 462 would have expanded the Kentucky Reinvestment Act to include non-retail service or technology reinvestment projects and headquarters reinvestment companies that have at least 200 employees and make at least a \$2.5 million capital investment. *Not considered by the House.*

PRO-BIZ



## ENERGY AND ENVIRONMENT

### Election of PSC officials

SB 151 would have changed the make-up of Kentucky's Public Service Commission by increasing the number of commissioners from three to seven and making them elected positions instead of appointed. This change would have threatened to de-stabilize the energy market and increase utility rates rather than decrease them. *Passed the Senate; passed as amended by the House; failed concurrence.*

NO-BIZ



### Nuclear power ban

SB 34 would have lifted Kentucky's nuclear power moratorium in the state. *Passed the Senate, not considered by the House.*

PRO-BIZ



### Wastewater

SB 120 allows the Kentucky Energy and Environment Cabinet to pursue a regulatory change to create a certification program for laboratories that test for water quality issues and standards, minimizing business liability for falsified or incorrect data. *Enacted into law as an amendment to HB 385, another piece of energy legislation.*

PRO-BIZ



### Renewable energy mandate

HB 239 would have mandated the use of renewable energy resources for the purpose of generating electricity in Kentucky. While the Kentucky Chamber supports the development of alternative energy, the Chamber opposes mandating the use of renewable resources if it creates instability and rate increases in Kentucky's energy market. *Not considered by the House.*

NO-BIZ



### Alternative energy incentives

HB 340 would have expanded on HB 1 passed in the 2007 special session by allowing incentives for companies that manufacture components for alternative fuels, energy storage and renewable energy manufacturing facilities. *Passed the House, not considered by the Senate.*

PRO-BIZ



### Coal ash proposal

HB 237 would have regulated coal ash in Kentucky and established specific guidelines and principals for its disposal and beneficial reuse. The Kentucky Chamber recently opposed similar efforts by the U.S. Environmental Protection Agency. *Not considered by the House.*

NO-BIZ







(LEFT) Gov. Steve Beshear signs the corrections reform bill (HB 463) into law. This Chamber-supported legislation will save Kentucky's business community \$7.2 million in the next year. (RIGHT) Sen. Gerald Neal confers with the Chamber's vice president of public affairs, Bryan Sunderland at the Capitol Annex.

# Advocacy efforts generate savings for business community

**YOU'VE GOT A BUSINESS TO RUN.** Whether you're a small service business, a large manufacturer or somewhere in between, making it through uncertain economic times is taking all your energy and resources.

But if you think you're too busy for state politics or just have no reason to care, you're wrong. More than 70 percent of legislation that affects Kentucky businesses is passed at the state level, and that's too important to ignore. That's where your Chamber membership comes in.

During the 2011 General Assembly alone, the Chamber's advocacy efforts saved the Kentucky business community an estimated \$82.8 million per year (see chart for details).

## OPPOSED HEALTH COVERAGE MANDATES

SB 75 would have increased health insurance costs by unbundling services and mandating higher payments for chiropractors. The actuary for the Kentucky Department of insurance estimated that this mandate would increase health insurance premiums by \$5.15 to \$6.20 per person per year, meaning a business with 50 employees would have to pay up to \$310 per year in additional health insurance costs.

## SUPPORTED CORRECTIONS REFORM

HB 463 made a number of important changes in Kentucky's penal code to reduce the size of the state's prison population, which has been growing faster than any state in the nation. The bill reduces penalties for non-violent drug crimes and reinvests a portion of the savings from reduced prison costs in increased drug treatment and enhanced probation and parole efforts.

The total savings are estimated at \$42 million per year, with \$24 million annually reinvested, yielding net savings of \$18 million per year. Since Kentucky businesses contribute an estimated 40% of state tax revenue, the \$18 mil-

## BY THE NUMBERS

Legislation	Annual Savings to Ky. Business Community
Health insurance mandate defeated (SB 75)	\$1.7 to \$2.1 Million
Corrections reform passed (HB 463)	\$7.2 Million
Immigration legislation defeated (HB 3, SB 6)	\$16 million
Expanded sales tax defeated (HB 318)	\$57.5 Million
TOTAL SAVINGS	\$82.8 Million

lion per year in corrections savings will save Kentucky businesses \$7.2 million per year, an average of \$77.42 per business per year (\$7.2 million divided by 93,000 total businesses in Kentucky).

## OPPOSED IMMIGRATION LEGISLATION

HB 3 and SB 6 would have made several changes to Kentucky's immigration laws, influencing how businesses document foreign workers. HB 3 would have required firms doing business with the state to use the federal E-Verify system, while SB 6 dealt with the powers of law enforcement and created new state penalties for aiding or harboring illegal immigrants. The annual cost of these new penalties, taking into account savings in reduced social services provided to illegal immigrants, was estimated by the Legislative Research Commission at approximately \$40

million per year. Since Kentucky businesses contribute an estimated 40% of state tax revenue, the \$40 million per year in new corrections spending would have cost Kentucky businesses \$16 million per year, an average of \$172 per business per year (\$16 million divided by 93,000 total businesses in Kentucky).

## OPPOSED TAX LEGISLATION

HB 318 would have made a number of substantial changes in Kentucky's tax code. In addition to raising the cigarette tax by 50 cents per pack, increasing individual income tax rates for higher incomes and phasing out the tax exemption (up to \$41,110) for public and private pensions, the key provision impacting Kentucky business would have imposed the sales tax on these and other services to generate up to \$115 million per year in additional state revenue:

- Golf course greens fees and membership fees in private golf clubs and private country clubs
- Janitorial services, including carpet, upholstery, and window cleaning
- Armored car services
- Exterminating and pest-control service
- Landscaping services, excluding lawn-care services

These new sales taxes are of particular concern to business because economists at the University of Kentucky estimate that 50% of the sales taxes collected in Kentucky are paid by business. That means the estimated \$115 million in new sales taxes imposed by HB 318 would have cost the Kentucky business community over \$57.5 million per year in additional taxes. With approximately 93,000 businesses in Kentucky (according to the U.S. Census Bureau), the Chamber's successful opposition to HB 318 saved each business in Kentucky an average of \$618 per year in sales tax. (\$57.5 million divided by 93,000 businesses.)

# Kentucky politics is your business

**MEMBERSHIP** with the Kentucky Chamber gets you a seat at the table through our lobbying team and policy councils, so you can get back to work knowing your interests are being represented.

"All of our members and investors are dedicated to accelerating the mission of the Kentucky Chamber, which is to create a thriving climate for business here in Kentucky," said Carlos Phillips, vice president of membership & marketing. "Our member companies really get it; they understand how important advocacy at the state level is to their businesses."

Kentucky Chamber members don't just reap the benefits of the Chamber's legislative influence; members are critical in shaping the dialogue at the state capitol and beyond and in driving the efforts of the Chamber.

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- Carlos Phillips, VP membership and marketing

## WHY JOIN THE KENTUCKY CHAMBER?

The legislative impact of joining voices with the business community throughout the state is the No. 1 reason your membership in the Kentucky Chamber is essential. But you get a few other perks, too!

- Member Savings programs with exclusive discounts on office supplies, printers and ink/toner, small-group health insurance and wellness programs, and HR/payroll services.
- Discounts on attendance at training seminars and Chamber events.
- Savings on Chamber publications and labor posters.
- Access to the Small Business Navigator resource center.

