

KENTUCKY

# Transportation News

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## KBT-Supported Bills Advancing In Kentucky General Assembly

With 46 legislative days used and only 14 legislative days remaining, three bills supported by KBT members have advanced in the legislative process this week. While there are other bills progressing, these three made substantial progress this week alone.

**SJR 169**, a resolution sponsored by Senate President David Williams (Burkesville), is extremely important to the \$4.2 billion Ohio River Bridges Project, because it ratifies the creation of the Bi-State Authority and ratifies the appointment of the Kentucky board members selected earlier by Governor Beshear. On Wednesday morning, the measure passed favorably out of the Senate-Transportation Committee by a 16-0 vote, and will go to the Senate Consent Calendar, an accelerated voting procedure for non-controversial bills. Because SJR 169 contains an emergency clause, it will become effective immediately on the Governor's signature, which could occur this coming week, March 15-19.

**HB 363**, a bill sponsored by House-Transportation Committee Chairman Hubert Collins (Wittensville), would eliminate an out-dated statutory requirement that vehicle title information be kept and stored on microfilm, and allow for other methods of storage. An unrelated (but humorous) amendment was added to the measure which eliminates a \$7 registration fee for all sidecars which attach to motorcycles. The Senate-Transportation Committee approved the bill unanimously by a vote of 11-0. Committee staff informed the legislators that no one in Kentucky had registered any motorcycle sidecars in recent years, so elimination of the fee would not result in the loss of any revenue to the Commonwealth. Sen. Bob Leeper (Paducah) quipped, "So I can go home and tell my motorcycle constituents that they don't have to pay what they weren't paying."

**HB 28**, a bill sponsored by Rep. Will Coursey (Benton) creates a new 7-member Water Transport Advisory Board, to advise the legislative and executive branches of state government on ways to take more advantage of water commerce and Kentucky's valuable riverports. KBT has provided information to legislators regarding the current widening project of the Panama Canal, set to be completed in 2014 or 2015. This development offers distinct opportunity for more commerce on the Mississippi and Ohio Rivers, via container cargo. HB 28 has now passed both the full House and full Senate, but it returns to the House, again, for the House members to "concur" in some minor amendments added to the bill in the Senate Transportation Committee two weeks ago. The House is expected to act on HB 28 this coming week.

## Deaton Appoints Gabbard KBT Safety Committee Chair



**Luther Deaton, Jr.**



**Calvin Grayson**



**Jason Gabbard**

KBT Chairman Luther Deaton, Jr. has appointed Jason B. Gabbard to chair the KBT Safety Committee, following the voluntary resignation of Calvin G. Grayson.

Grayson has chaired the KBT Safety Committee for nearly two decades, and served as the Kentucky Transportation Cabinet Chief Administrative Officer from 1977 to 1979. He also served as the Chair of KBT in 1989, while serving as the Executive Director of the Kentucky Transportation Center in Lexington.

“Secretary Grayson has devoted his total energy to safety improvement in his retirement,” said KBT President Stan Lampe. “While he asked to step down as KBT Safety Committee chair, I am confident that Cal will continue to be an active participant in KBT activities, and an outspoken advocate for improvements in safety legislation. He certainly continues to inspire me. At the same time, we know that Jason Gabbard will hit the ground running, and KBT’s safety agenda won’t miss a beat.”

Gabbard grew up in Richmond, Kentucky and attended Model Laboratory School. After graduating from high school, he began his construction career working summers for The Allen Company, Inc. at their Boonesboro Quarry and on various construction projects in Central Kentucky. During this time, he also attended the University of Kentucky and earned a degree in Health Care Finance in 1996. After receiving his Bachelor’s degree, he moved to Northeast Tennessee to work in hospital administration for Mountain States Health Alliance in Johnson City, TN.

But Jason didn’t leave the construction field for very long and moved back to work for The Allen Company, Inc. in 2000.

Upon returning to The Allen Company, Jason’s principal responsibility was managing the company’s limestone quarries and asphalt plants. In 2004, Gabbard was made an officer of the company and promoted to Assistant Vice President. His duties have now expanded to direct responsibility for many of the business operations. In addition to being a KBT Board member, Jason is involved in PAIKY and KAHC and a former Board member of the Kentucky Crushed Stone Association.

Jason and his wife, Kimberly, reside in Richmond. They have two children, Jackson Benton, 7, and Lauren Cate, 1. Jason and Kimberly are active in their church, and Jason is a volunteer soccer and basketball coach for his son’s teams. Jason also serves on the Telford YMCA Board in Richmond.

## Encouraging Trends in Kentucky Fatality Statistics for 2010



**Acting Secretary  
Mike Hancock**

The Office of Highway Safety, in Frankfort, issues an early morning e-mail five days a week offering an update on traffic safety data that's well worth reading. Right now, the data reveals some amazing progress in fatality reduction.

**As of today, Friday, March 12, 110 fatalities have been recorded for calendar year 2010.**

While that means that 110 Kentucky families have been tragically shocked by the loss of a loved one, **this year's fatalities are nearly 25% below the fatality levels of recent years on March 12.**

By comparison, in 2009, **137** fatalities had occurred year-to-date, and, in 2008, **137** fatalities had occurred year-to-date. That's an encouraging reduction!

Certainly, Kentucky's sluggish economy, and the harsh winter weather in January and February have contributed to the reduced fatalities, but motor fuel consumption during February 2010 increased over February 2009, so KBT believes that safe driving habits, including the primary seat belt law supported by KBT, are making a difference.

**What action can you take to emphasize the importance of highway safety with your employees, with your friends, and with your own family? With St. Patrick's Day next Wednesday, March 17, what can you do to prevent the needless loss of life?**

If you want to receive the free daily traffic safety data e-mail from the Office of Highway Safety in Frankfort, just contact the KBT office (502-491-5600 or paula.kbt@msn.com), and we will get you included in the distribution list.

## Fierce Partisanship on State Spending, State Budget and Road Plan

On Wednesday evening in Frankfort, the House passed a \$17.5 billion budget amid some reasonably fierce partisan bickering. House floor debate lasted nearly three hours. HB 290 was approved by a party-line vote of 65-33. This follows a similar vote, last Thursday afternoon, on HB 530, the revenue bill, by a partisan vote of 64-36. Finally, HB 292, the two-year highway construction plan, was adopted on Tuesday, March 9, by a partisan vote of 67-32. News reports accurately described the situation: Democrats who voted to support the earlier revenue bill were rewarded with school, water, sewer and highway projects in the budget and two-year highway construction plan.

But it is far from over.

Like the ocean's tide, projects will ebb and flow, in and out of the budget and road plan over the next two weeks, because the 38-member Kentucky Senate is just beginning their work on the revenue plan, the biennial budget, and the two-year road plan. Like it or not, it's the legislative process.

It would appear that an immediate revenue plan challenge in the Senate will be dealing with the House-passed notion of a two-year moratorium on net operating loss carry-forward, also called NOL. On Wednesday, small business owners from across the state were very effective in communicating how that legislative proposal would financially cripple small business and start-up businesses, depriving them of

the very cash flow they need to keep their doors open. The House revenue bill anticipates an added \$185 million for each year of the biennium, or \$370 million total, from the NOL moratorium. But opposing business owners made a strong case that the House-approach only increases taxes on businesses currently in red ink. At this writing, there appears to be no support in the Senate for the two-year NOL moratorium.

One House leader was quoted as saying, “We have asked our business community to contribute, and we think it is fair that they do.” *Well, technically, that’s incorrect.* The House-passed revenue version only raises taxes on companies who are not making a profit... the tax structure for profitable businesses remains unchanged, for the moment.

Again, there are many twists and turns in the legislative process. Many changes will be made in coming days and weeks.

## **Barge Operators Seek Fuel Tax Hike... on Themselves**

In Washington, D.C., the U.S. inland waterway industry is taking a novel and progressive approach to maintaining and repairing aging locks and dams, if it can get the Congress and the White House to agree.

Barge operators are supporting a higher diesel tax on themselves in a 20-year plan, for needed waterway development nationwide.

The plan, jointly developed by the U.S. Army Corps of Engineers and the U.S. barge industry, would add 6 cents to 9 cents to the current 20 cents per gallon diesel tax paid by barge operators. The current tax generates approximately \$90 - \$100 million annually.

This is the first time the barge industry has supported a tax increase on itself. That’s because the tax increase is just one part of a much broader plan to reform the Corps of Engineers and accelerate waterway construction projects. The plan would prioritize construction of more than 100 projects nationwide, increasing the number of projects that can be completed, and stabilizing the Inland Waterway Trust Fund.

The barge industry is united behind uniform higher fuel taxes. Both the Bush Administration and the Obama Administration included an alternative “lockage fee” that would levy a charge every time a barge tow passed through a lock. However, the industry points out that lockage fees would competitively disadvantage “up-river” commerce in cities such as Pittsburgh and Minneapolis, and overall triple the amount of fees paid by the industry.

## **Stand Up And Be Counted!**

**In the next two weeks**, every Kentuckian will be receiving the same piece of mail in their mailbox...their 2010 U.S. Census form. Believe it or not, there’s \$4 **trillion** dollars riding on the results, over the next ten years.

Accurate data reflecting population changes in your community and county are crucial in not only apportioning seats in the U.S. House of Representatives, but also deciding how more than \$400 billion per year is allocated for projects, like new schools, hospitals, senior citizen funding, job training centers, sidewalks, roads and bridges, even emergency services.

**Ask your Mayor and your County Judge what you can do to bring attention to the importance of the 2010 Census in your area. Stand up and be counted!**

## **General Fund Down for February; Road Fund Up; Coal Down**

On Wednesday, the State Budget Director reported that February's General Fund receipts fell 0.6%, compared to February 2009, a decrease of \$3.4 million. Total revenues for the month were \$525.0 million, compared to \$528.4 million in February 2009. Budget Director Mary Lassiter noted that General Fund tax receipts continue to lack positive momentum despite a prediction by the Consensus Forecasting Group (CFG) that revenues should improve in the second half of the fiscal year. "General Fund receipts have now declined 11 of the previous 12 months. While weak tax collections are built into our expectations of the tight budget environment, we had expected to see an upturn in receipts this spring. Sales tax collections were particularly weak this month, falling 9.1%," Lassiter said.

Road Fund receipts grew 1.6% in February 2010, with collections of \$99.4 million, **however, year-to-date Road Fund receipts are down 1.1%**. The officially revised Road Fund estimate by the CFG calls for an increase in revenues of 0.6% for the fiscal year, but with only 4 months remaining in the state fiscal year, revenues must increase by 3.8% for the remainder of FY 10 to meet the estimate. Motor fuel taxes have posted robust growth of 6.5% in February, which is in line with an increase in fuel taxes that the CFG predicted.

Coal severance receipts fell 11.3%, and are down 12.5% for the first 8 months of the fiscal year. This is a continuation of a projected decline in coal severance receipts attributable to underlying weakness in coal prices. At a Senate – Appropriation & Revenue Committee meeting held March 9, it was confirmed that of the 214 permitted coal mines in Kentucky, over one-half are currently inactive.

## **Selected State Legislation of Interest to KBT Members**

(as of Friday, March 12, 2010)

(Updated status of bills available at [www.lrc.kv.gov](http://www.lrc.kv.gov))

### **Administrative**

**HB 363** (Rep. Collins) Eliminate out-dated statutory requirement that vehicle title information be kept and stored on microfilm; allow for other methods of storage. **KBT Support.** To House – Transportation Committee. **Passed favorably from Committee on 2/9. To House floor. Passed House 98-0 on 2/17. To Senate – Transportation Committee. Passed favorably from Committee on 3/10 by vote of 11-0. Add provision to eliminate \$7 registration fee of motorcycle sidecars. To Senate floor and Consent Calendar on 3/11.**

### **Airports**

**HB 183** (Rep. Wayne) Create new tax credit for residential noise abatement in airport runway corridor areas. **KBT monitor.** To Approp. & Revenue Committee on January 6.

### **Auto Dealerships**

**HB 217** (Rep. Lee) Prohibit the granting of a license for a new auto dealership if located within a 10-mile radius of former dealership that was forced to close when franchise was revoked by manufacturer. **KBT monitor. Passed House Transportation on 1/26; to House Floor. Passed House 98-0 on 2/2. To Senate. Received in Senate on 2/3. To Senate – Transportation Committee on 2/5.**

**HB 297** (Rep. Lee) Establish standards for 501(c) 3 non-profit motor vehicle dealers (e.g. Goodwill, Salvation Army, etc.) to both purchase and sell motor vehicles; require that purchase and sale only for “clients;” define “clients” in narrow manner. Supported by Ky. Auto Dealers Assoc. **KBT monitor.** **Passed House Transportation on 2/2; to House Floor on consent. Passed House 99-0 on 2/10. To Senate – Transportation Committee. Passed favorably from Committee on 3/10 by vote of 11-0. To Senate floor and Consent Calendar on 3/11.**

### **Bidding and State Contracting Practices**

**SB 45** (Sen. Tapp) Give preference to Ky. bidders in state government projects; establish bidders must have at least one year residence in state. **KBT monitor.** To Senate - State & Local Government. **Passed favorably from Committee on 1/20. To Senate Floor. Passed Senate 38-0 on 1/28. To House – State Government Committee. Passed favorably out of Committee on 2/25; To House floor. Recommitted to House – State Govt. Committee on 3/3.**

### **Distracted Driving, Inattentive Driving, Text/Cell Phone Usage While Driving**

**HB 27** (Rep. Nelson) Prohibits cell phone usage by any driver under the age of 18, but prohibits texting while driving for all drivers, regardless of age; probationary period through November 1, 2010; fine after probationary period is \$50 per offense. **KBT Support.** To House Transportation Committee on January 6. (No further action likely on this bill, as HB 43, below, will be the active legislation.)

**HB 43** (Rep. Richards) Prohibits texting while driving for all ages; prohibits text and cell phone use for drivers under 18; probationary period ends November 1, 2011 during which time warnings are issued; fines after probationary period are \$20 to \$100 for each offense. **KBT Support. Passed House Transportation Committee on 1/26; To House Floor. Passed House 80-16 on 2/4 with House floor amendment requiring vehicle to be in motion to constitute a violation. To Senate. To Senate-Judiciary Committee on 2/8.**

**HB 232** (Rep. Burch) Prohibits cell usage of both verbal and text communications while driving; warning for first violation; fines between \$20 and \$100 for subsequent offenses. **KBT Support. Failed in House Transportation Committee on 1/26; No further action likely.**

**SB 23** (Sen. Harper Angel) Prohibits texting, instant messaging, and e-mailing while driving; probationary period ends November 1, 2010 during which time warnings are issued; fines after November 1, 2010 are set at \$100 for first offense and not less than \$300 for subsequent offenses. If violation results in auto accident, fines are to be less than \$200 and no more than \$600. **KBT Support. To Senate Judiciary Committee on January 6. NOTE: Senate Judiciary Committee action likely on this bill during week of March 15-19.**

### **DUI Legislation**

**HB 58** (Rep. Keene) (**54 co-sponsors!!**) Require ignition interlock usage beginning with first DUI; require offender to drive with interlock equipped work vehicle as well; require interlock usage while offender is driving on a hardship license. **KBT Support.** To House Judiciary Committee on January 6; reassigned to Approp. & Revenue Committee on January 26. **Passed 22-0 out of Approp. & Revenue Committee on 2/9. To House Floor. Passed House 95-0 on 2/18. To Senate – Judiciary Committee on 2/22.**

**HB 121** (Rep. Harmon) Expand look-back period from 5 years to 10 years for prior offenses; allow for forfeiture of motor vehicle in DUI if operator's license has been suspended previously. **KBT Support.** To House Judiciary Committee on January 5.

**SB 144** (Sen. Jones) Establish a per se violation of DUI statutes if driver has controlled substances in blood; reduce required alcohol concentration for aggravating circumstances from 0.18 to 0.15. **KBT Support.** To Senate Judiciary. **Passed favorably out of Senate Judiciary on 2/11. To Senate floor. Passed Senate 34-2 on 2/18. To House – Judiciary Committee on 2/22.**

### **Highways, Streets & Bridges**

**HB 24** (Rep. Richards) Provide local entities (tourist agencies, etc.) authority to purchase a “brown sign” for local tourist and historical sites. Signs still must be approved, installed by Transportation Cabinet. **KBT monitor. Passed House Transportation on 1/26; to House Floor on consent. Passed House 95-0 on 2/3; To Senate. To Senate – Transportation. Passed favorably out of Committee on 3/3 by vote of 11-0; To Senate floor on Consent Calendar. Passed Senate 36-0 on 3/11. Will now go to Governor.**

**HB 267** (Rep. Thompson) Extend the sunset date from June 30, 2010 to August 31, 2010 for the \$25 million vehicle sales tax offset, when trading in a car to purchase a new car. **KBT opposed. To House Appropriations & Revenue Committee – January 19. Passed favorably out of Committee on 2/23; To House Floor. Passed House 99-0 on 3/3; To Senate on March 4. To Senate – Appropriations & Revenue Committee on 3/8.**

**HB 410** (Rep. DeCesare) Make permanent the allowance of trade-in credit when determining the motor vehicle usage tax on new vehicle purchases. **KBT Opposed.** (Note: if enacted, this bill would permanently extend the trade in credit, set to expire on June 30, 2010. This credit is currently funded by diverting \$25 million from the Road Fund.) **Introduced on Feb 9. To House – Appropriations & Revenue Committee on 2/10.**

**SJR 169** (Sen. Williams & 8 co-sponsors) Ratify the appointments of Governor and ratify the formation of the Ohio River Bridges Bi-State Authority to accelerate construction of the Southern Indiana – Louisville Bridges mega-project. Include emergency clause making ratification effective upon Governor's signing bill. **KBT Support. Introduced Feb 24. To Senate – Transportation. Passed 11-0 in Senate Transportation on 3/3. To Senate floor on 3/3, passed 38-0. To House on 3/4. To House-Transportation Committee. Posting requirement waived. Passed favorably out of Committee on 3/9 by vote of 16-0. To House floor on Consent Calendar. Scheduled for House floor vote on Monday, March 15.**

### **License Plates**

**HB 40** (Rep. Collins) Provide state legislators immunity from lawsuit when groups litigate special license plate issues with the Transportation Cabinet. **KBT monitor. Passed House Transportation on 1/26; to House Floor on consent. Passed House 94-1; To Senate. To Senate – Transportation Committee. Passed favorably out of Committee on 3/10 by vote of 11-0. To Senate floor and Consent Calendar on 3/11.**

**HB 100** (Rep. Gooch and 12 co-sponsors) Provide that “In God We Trust” license plate as an alternative standard-issue license plate for motorists. **KBT monitor. Passed House Transportation on 1/26; to House Floor on consent. Passed House 93-1 on 2/2. To Senate. Received in Senate 2/4. To Senate - Transportation Committee on 2/4.**

**HB 470** (Rep. Collins) Establish new system dealing with motor vehicle license plates so that plates stay with original owner of vehicle and are placed on subsequent vehicles. Effective January 2013. Supported by County Clerks, law enforcement agencies and auto dealers. **Introduced 2/22; To House – Transportation Committee. Passed favorably out of Committee by vote of 20-0 on 3/3; To House; Passed favorably in House by vote of 100-0 on March 4. To Senate – Transportation Committee on 3/9.**

### **Public Transit**

**HB 82** (Rep. Horlander) Increase penalty for menacing and disorderly conduct relating to assault on operator or passenger of taxi, bus and other vehicles for hire. **KBT Monitor.** To House – Judiciary Committee on Jan. 5.

### **Rail and Railroads**

**HB 31** (Rep. Nelson) Require Transportation Cabinet to inspect railroad grade crossings twice a year, if traffic count at crossing exceeds 700 vehicles daily. **KBT monitor.** To House Transportation on January 5.

**HB 181** (Rep. Nelson) Establish new standards for railroad employees; define railroad contract carrier employee, establish rules and standards, require \$5 million liability insurance. **KBT opposed.** To House Transportation Committee on January 5.

**HB 432** (Rep. Nelson) Establish new standards for railroad employees, define railroad contract carrier employee, establish rules and standards, require \$5 million liability insurance. **KBT opposed. To House – Labor & Industry Committee on 2/18; Voted favorably out of Committee on 2/25. To House Floor. Scheduled for House Floor vote on Friday, March 5. On hold.**

**HB 498** (Rep. Pullin) Establish 7-member Passenger Rail Transportation Advisory Board to advise executive and legislative branches of Kentucky state government; prohibit payment of board members and prohibit reimbursement of expenses; provide for quarterly meetings and attach Advisory Board administratively to KYTC. **KBT Support. To House – Transportation Committee on 2/24; Passed favorably out of Committee on 3/9 by vote of 16-0; to House floor and Consent Calendar. Scheduled for House floor vote on Monday, March 15.**

**HJR 133** (Rep. Glenn) Require KYTC to study feasibility of establishing a high speed rail network in Kentucky. **KBT Support.** To House – Transportation on 2/10.

## **Traffic Safety Legislation**

**HB 15** (Rep. Riner) Prohibits shock probation until either service of one year of imprisonment or completion of comprehensive substance abuse treatment with supplemental character and education components; to be titled “Kentuckians Against Drunk Driving Act.” **KBT monitor.** To House Judiciary Committee on January 5.

**HB 79** (Rep. Arnold) Extend the allowable traveling distance for golf carts on local roads (not state roads) from 5 miles to 7 miles from a golf course. **KBT monitor.** To House Transportation Committee on January 5. **Amended to eliminate references to distances altogether and allow city governments or county governments to enact local ordinances allowing golf cart travel, based on local circumstances. Passed favorably from Committee on 2/23; to House Floor. Passed House 94-5 on 2/25. To Senate – Transportation Committee on 3/1. Passed favorably out of Committee on 3/10 by vote of 12-0. To Senate floor and Consent Calendar on 3/11.**

**HB 113** (Rep. Denham) Requires the illumination of headlights during any period of precipitation that necessitates the use of windshield wipers by motorists. **KBT monitor.** To House Transportation Committee on January 5.

**HB 131** (Rep. Burch) Requires KYTC to issue magnetic decals that shall be affixed to motor vehicles identifying drivers who hold an instructional permit. **KBT Support. Passed House Transportation Committee on 1/26; to House floor. Passed House 55-39 on 1/28. To Senate. To Senate Transportation Committee on 2/3.**

**HB 352** (Rep. C. Miller) Specify that double fines in work zones are only applicable when required signs are posted and workers are physically present in work zone. **KBT monitor.** To House – Transportation Committee. **Passed favorably out of Committee on 2/9. To House Floor. Passed House 98-0 on 2/17. To Senate. To Senate – Transportation Committee on 2/22.**

**HR 91** (Rep. Ballard) Request KYTC perform study on cost savings and safety implications of reducing amount of lighting used on remote parkway interchanges. **KBT Monitor. Adopted by vote of 98-0 on 2/11.**

## **Waterway**

**HB 28** (Rep. Coursey) Establish 7-member Water Transport Advisory Board to serve as an expert advisory body to the legislative and executive branches of Ky. state government; establish that Board members receive no compensation or reimbursement. **KBT Support. Passed House Transportation Committee on 2/2; to House floor. Passed House 95-1 on 2/4. To Senate – Transportation. Passed Senate Transportation on 3/3 by vote of 11-0. To Senate floor on Consent Calendar. Passed full Senate on 3/9 with voice vote. Return to House to concur in Senate amendments. Received in House 3/11.**