

**COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION I
CASE NO. 18-CI-414
*ELECTRONICALLY FILED***

**COMMONWEALTH OF KENTUCKY, *ex rel.*
MATTHEW G. BEVIN, in his official capacity
as Governor of the Commonwealth of Kentucky**

PETITIONER

V.

**ANDY BESHEAR, in his official capacity as
Attorney General of the Commonwealth of Kentucky**

RESPONDENT

**GOVERNOR BEVIN'S COMBINED REPLY IN SUPPORT OF HIS MOTION
FOR SUMMARY JUDGMENT & SUR-REPLY TO THE ATTORNEY
GENERAL'S MOTION TO DISMISS**

Unlike the Attorney General, the Governor does not file lawsuits simply for political gain. He litigates matters only when necessary. And the Governor filed the petition for a declaration of rights in this case precisely because it is necessary.

The Attorney General's Reply in Support of his Motion to Dismiss contends that the Governor's position contains a "straightforward logical contradiction," [*see* Reply Br. at 1], but it is the Attorney General's logic, not the Governor's, that suffers from such a flaw. In challenging Senate Bill 151, the Attorney General has introduced a constitutional argument that, if accepted, would call into question the procedural validity of every bill and resolution passed during the 2018 legislative session. But the pension litigation itself will neither fully address nor finally resolve whether these bills and resolutions violated Kentucky Constitution Section 56—a

crucially important issue in light of the Attorney General's astonishing position in the pension lawsuit.

The Governor agrees that the Attorney General has not challenged the constitutionality of any other acts of the 2018 General Assembly. [See Reply Br. at 1]. It is for this very reason that this declaratory judgment action is needed. In the present case, Governor Bevin seeks a specific declaration that, in addition to Senate Bill 151, the **213 other bills and resolutions** signed by Speaker Pro Tempore David W. Osborne were not defective under Section 56 for lack of a presiding officer's signature. By admitting that the pension litigation does not encompass these 213 bills and resolutions, [see *id.*], the Attorney General admits that the pension litigation will not fully resolve the important legal question presented by the Governor herein.

At the end of the day, the Governor's petition easily constitutes a controversy separate from that in Civil Action No. 18-CI-379, and the Court should deny the Attorney General's Motion to Dismiss and enter a declaratory judgment in favor of the Governor in this matter.

Respectfully submitted,

/s/ M. Stephen Pitt

M. Stephen Pitt

S. Chad Meredith

Matthew F. Kuhn

Office of the Governor

700 Capital Avenue, Suite 101

Frankfort, Kentucky 40601

(502) 564-2611

Steve.Pitt@ky.gov

Chad.Meredith@ky.gov

Matt.Kuhn@ky.gov

Brett R. Nolan
Finance and Administration Cabinet
Office of the General Counsel
Room 392, Capital Annex
Frankfort, Kentucky 40601
(502) 564-6660
Brett.Nolan@ky.gov

Katharine E. Grabau
Public Protection Cabinet
Office of Legal Services
656 Chamberlin Avenue, Suite B
Frankfort, Kentucky 40601
(502) 564-7760
Katie.Grabau@ky.gov

Counsel for Governor Bevin

CERTIFICATE OF SERVICE

I certify that copies of the foregoing were served via email this 4th day of June, 2018, to Andy Beshear, J. Michael Brown, La Tasha Buckner, S. Travis Mayo, Marc G. Farris, Samuel Flynn, Office of the Attorney General, 700 Capitol Avenue, Suite 118, Frankfort, KY 40601; Jeffrey Walther, Victoria Dickson, Walther, Gay & Mack, 163 E. Main St., Suite 200, Lexington, KY 40588; David Leightty, Alison Messex, Priddy, Cutler, Naake, Meade, 2303 River Road, Suite 300, Louisville, KY 40206; David Fleenor, Vaughn Murphy, Capitol Annex, Room 236, Frankfort, KY 40601; Eric Lycan, Office of the Speaker, Capitol Annex, Room 332, Frankfort, KY 40601; Mark Blackwell, Katherine Rupinen, Joseph Bowman, Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, KY 40601; Robert B. Barnes, Teachers' Retirement System, 479 Versailles Road, Frankfort, KY 40601; Bill Johnson, Johnson Bearse, LLP, 326 West Main Street, Frankfort, KY 40601.

/s/ Matthew F. Kuhn
Counsel for Governor Bevin