

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION I
CIVIL ACTION NO. 18-CI-414
CIVIL ACTION NO. 18-CI-379
(CONSOLIDATED)

Filed Electronically

MATTHEW G. BEVIN, in his official capacity
as Governor of the Commonwealth of Kentucky, *et al.*

PLAINTIFFS

v.

MOTION TO INTERVENE ON BEHALF OF
KENTUCKY LEAGUE OF CITIES, AND
MOTION FOR LEAVE TO FILE OUTSIDE FILING DEADLINE

COMMONWEALTH OF KENTUCKY
ex rel. ANDY BESHEAR, ATTORNEY GENERAL *et al.*

DEFENDANTS

NOTICE-MOTION-ORDER

All parties shall take notice that the following Motion to Intervene and the Motion for Leave to file the Motion outside the filing deadline set in Local Rule 4.01 shall come on for hearing before the Franklin Circuit Court on Wednesday, June 27, 2018 at the hour of 9:00 a.m., or as soon thereafter as counsel may be heard.

MOTION TO INTERVENE

Pursuant to CR 24.01 and 24.02, and consistent with CR 24.03, the Movant, the Kentucky League of Cities (“KLC”), by counsel, hereby moves to intervene in this action as a Defendant/Respondent. As this Court is aware, the primary issue in this case has been and continues to be whether SB 151 concerning teacher pensions is or is not unconstitutional. The Attorney General takes the position that SB 151 ran afoul of the Kentucky Constitution in

several ways, including that it was passed without the three readings required by the Constitution's Section 46. The Governor disputes this. He has continued to argue that if SB 151 is ruled unconstitutional on account of the three-reading rule, then numerous other important acts recently passed by the General Assembly and either signed into law by the Governor or which became law when the legislature overrode the Governor's veto are similarly deficient and thus would have to also be ruled unconstitutionally void. However, these other legislative acts were not previously before the Court.

That all changed after oral argument on the Cross Motions for Summary Judgment in this case. On June 13, 2018, the Governor filed an Amended Petition in his Civil Action No. 18-CI-414 which sought to squarely bring the constitutionality of numerous other acts before this Court for a ruling. In apparent hopes of bringing political pressure to bear, the Amended Petition seeks declaratory rulings that numerous other legislative acts which also run afoul of the three-reading rule are – like SB 151 – constitutional. However, this brinkmanship failed. On June 20, 2018, and shortly after the filing of the Amended Petition, this Court rendered its Opinion on the Cross Motions for Summary Judgment, declaring SB 151 unconstitutional and null and void. Instead of convincing the Court of the necessity of ruling on SB 151, the Amended Petition has now imperiled the viability of many other important laws passed in the 2018 legislative session. If this Court denies the Motion to Strike and allows the Amended Petition to go forward, there is the very real potential that the other identified legislation which also did not receive three readings will also be deemed unconstitutional. This includes HB 362, which allows Kentucky cities and counties to phase-in their increased pension contributions over a ten (10) year period as opposed to facing the steep increase scheduled to begin in 2018.

While KLC did not seek to intervene on the pension issue, it now seeks to intervene in

this action so as to argue for the constitutionality of HB 362 and to more fully articulate the impact that nullifying HB 362 would have on its members. KLC is an association whose members are comprised of Kentucky cities and their representatives. KLC lobbies for legislation which advances the interest of Kentucky's cities. It commences litigation and intervenes in pending litigation so as to obtain declaratory or other relief on public issues of importance to its city members. That is part and parcel of the many benefits Kentucky cities receive as a KLC member. HB 362 is not only important to KLC's members: it is essential. As the Governor concedes in his Amended Petition, if HB 362's constitutional status is tied to SB 151, and both are ruled unconstitutional, "the results would be disastrous" as "numerous cities and counties would be forced into financial distress and possibly bankruptcy." (*See* Amended Petition at ¶ 99).

KLC satisfies all the elements of CR 24.01 and/or CR 24.02 and thus this Court should grant the instant motion. KLC's motion is timely. KLC claims an interest in the subject matter of the Amended Petition that cannot be adequately represented by existing parties – none of which are Kentucky cities. The interest of KLC's members thus may be impaired if it is not allowed to intervene. After all, a ruling on the constitutionality of HB 362 will have a different impact on its members than those of existing parties. KLC and its members are entitled to have their voices heard on this important issue.

BACKGROUND FACTS

On April 11, 2018, Defendant Andy Beshear, in his official capacity as Attorney General of the Commonwealth of Kentucky (hereinafter "the AG"), along with the Kentucky Education Association and the Kentucky State Lodge Fraternal Order of Police originally filed suit against Plaintiff Commonwealth of Kentucky *ex rel.* Matthew G. Bevin, in his official capacity as

Governor of the Commonwealth of Kentucky (hereinafter “the Governor”), and the President of the Senate and the Speaker Pro Tempore of the House of Representatives challenging the passage of SB 151 (hereinafter “Lawsuit”). On April 18, 2018, the Governor filed a Petition for Declaration of Rights (hereinafter “Petition”), requesting judgment on a portion of the AG’s argument in the Lawsuit, regarding the definition of “Presiding Officer.” The Court consolidated the Petition with the Lawsuit on April 20, 2018. Following completion of extensive and contentious briefing relating to the Lawsuit, including the “Presiding Officer” argument, oral argument was heard in Franklin County Circuit Court on June 7, 2018.

On June 13, 2018, the Governor filed an Amended Petition for a Declaration of Rights (hereinafter “Amended Petition”), questioning the impact of the AG’s other arguments on numerous other pieces of litigation, including HB 362. On June 14, 2018, the AG filed a Motion to Strike the Amended Petition. On June 18, 2018, the Governor filed a Response to the Motion to Strike. On June 20, 2018, the Court issued an Order voiding Senate Bill 151 in its entirety. In Footnote 14 in its June 20, 2018 Order, the Court explained that it will hear arguments on the Motion to Strike the Amended Petition on June 27, 2018 and render a decision by separate Order. KLC’s Motion to Intervene was filed on June 25, 2018.

ARGUMENT

The Court should permit KLC to intervene as a Defendant in this action pursuant to CR 24.01. Specifically, CR 24.01(1) provides that:

Upon timely application anyone shall be permitted to intervene in an action...when the applicant claims an interest relating to the property or transaction which is the subject of the action and is so situated that the disposition of the action may as a practical matter impair or impede the applicant’s ability to protect that interest, unless that interest is adequately represented by existing parties.

CR 24.01(1)(b). Similarly, CR 24.02 permits intervention “when an applicant’s claim or defense and the main action have a question of law or fact in common.” CR 24.02. When exercising its

ample discretion in granting permissive intervention, “the court shall consider whether the intervention will unduly delay or prejudice the application of the rights of the original parties.”

Id. Kentucky courts “construe CR 24 liberally in order to effect the purpose of intervention.”

Yocom v. Hi-Flame Coals, Inc., 568 S.W.2d 757, 759 (Ky. App. 1978).

A. KLC’s application is timely.

Both CR 24.01 and CR 24.02 require a motion to intervene to be “timely” in order to avoid undue delay or prejudice to the rights of the original parties. A court may consider the following five factors to determine timeliness of a motion to intervene:

(1) [T]he point to which the suit has progressed; (2) the purpose for which intervention is sought; (3) the length of time preceding the application during which the proposed intervenor knew or reasonably should have known of his interest in the case; (4) the prejudice to the original parties due to the proposed intervenor’s failure, after he or she knew or reasonably should have known of his or her interest in the case, to apply promptly for intervention; and (5) the existence of unusual circumstances militating against or in favor of intervention.

Carter v. Smith, 170 S.W.3d 402, 408 (Ky. Ct. App. 2004) (quoting *Grubbs v. Norris*, 870 F.2d 343, 345 (6th Cir. 1989)).

KLC’s motion is timely. While the Court has now ruled on the constitutionality of SB 151, KLC’s interest only arose very recently, once the Governor filed his Amended Petition seeking to bring the constitutionality of HB 362 squarely before the Court. The Amended Petition was filed only twelve days ago, and the Court only clarified on June 20, 2018 that it would resolve the Motion to Strike by separate Order after oral argument. *See GEICO v. Winsett*, 153 S.W.3d 862, 865 (Ky. App. 2004) (holding that intervention prior to trial or other disposition of the case is presumptively timely). KLC’s requested intervention would not delay this action or prejudice the existing parties to this action.

B. KLC’s interest could be impaired if the case is disposed of in its absence.

The next two elements of the intervention test – that KLC has a substantial interest in this case and that interest will be impaired if the case is disposed of its absence – are relatively easy to demonstrate and are more than met here. *See Michigan State v. Miller*, 103 F.3d 1240, 1247 (6th Cir. 1997) (“close cases should be resolved in favor of recognizing an interest under Rule 24(a)”); *Purnell v. Akron*, 925 F.2d 941, 948 (6th Cir. 1991) (intervenor need only prove that impairment of its interest is possible) (both cases interpret Fed. R. P. 24(a)(2), which is identical to CR 24.01).

Here, KLC claims a sufficiently substantial interest in this case to mandate its intervention under CR 24.01. As the Governor recognized in his Amended Petition, “House Bill 362...provides significant relief to Kentucky’s cities and counties by implementing a 10-year phase-in period for CERS pension contributions that are scheduled to increase substantially in 2018. If House Bill 362 is found invalid...numerous cities and counties would be forced into financial distress and possibly bankruptcy.” (*See* Amended Petition at ¶ 99). Accordingly, as an association whose members are those same Kentucky cities who may be thrown into financial distress if HB 362 is deemed unconstitutional, KLC has a very concrete interest in the continued viability of HB 362 and thus this case. *See City of Ashland v. Ashland F.O.P. No. 3*, 888 S.W.2d 667, 668 (Ky. 1994) (finding that the association had standing where its members had a “real and substantial interest” in the issue).

KLC’s interests will be directly and materially impaired and/or impacted by the resolution of the Amended Petition in this case. This Court has already ruled that SB 151 was passed in contravention to the three-reading rule in Section 46 of the Kentucky Constitution. Since the Governor has forced the question before the Court through its Amended Petition, if it is allowed to proceed it is possible that this Court could rule that HB 346 is similarly deficient and

thus also unconstitutional. It is also possible that any such ruling could become legally binding precedent if no appeal is filed by the existing parties and/or the appellate courts agree with such a ruling. In interpreting the identical federal counterpart to CR 24.01, the Sixth Circuit ruled that potential *stare decisis* effects can be a sufficient basis for concluding that disposition of a case in the absence of proposed intervenor could impair the intervenor's interests. *Linton v. Commissioner of Health & Env't*, 973 F.2d 1311, 1319 (6th Cir. 1992).

C. The existing parties cannot adequately represent KLC's interests.

KLC's interests in the constitutionality of HB 362 are not adequately represented by the existing parties to this case, and thus the final element for intervention of right is also met here. *See Carter v. Smith*, 170 S.W.3d 402, 410 (Ky. Ct. App. 2004) (explaining that neither party to the action had any reason to represent or protect intervenor's rights). An intervenor's burden to prove inadequate representation is "minimal", and thus it is irrelevant as to whether an existing party may take the same legal position as the intervenor seeks to take. "[I]t may be enough to show that the existing party who purports to seek the same outcome will not make all of the prospective intervenor's arguments." *See Mich. State v. Miller*, 103 F.3d at 1247). The requirement may also be satisfied where the action will have a different impact on the proposed intervenor's interests than those of existing parties. *Usery v. Brandel*, 87 F.R.D. 670, 676-77 (W.D. Mich. 1989) (noting that when an intervenor's "interest is similar to, but not identical with, that of one of the parties...he ordinarily should be allowed to intervene...)(citing 7A C. Wright and A. Miller, Federal Practice and Procedure ¶1909 at 524 (1972)).

Here, while their interests are similar, neither the Governor nor the AG (or any other of the Plaintiffs) directly represent cities in the unique manner that KLC does. Certainly, an adverse ruling on the constitutionality of HB 362 will impact KLC and its members differently

than it will for the existing parties. KLC has a unique voice and thus will make unique arguments about HB 362 and the impact on cities if it is ruled unconstitutional. Only KLC can and will make these city-oriented arguments. And only KLC can fully protect its own interests and that of its members. For example, the existing parties could decide not to pursue an appeal of a decision on the Amended Petition which nullifies HB 362. KLC must be made a party so it can protect its interests, irrespective of what the other parties hereto choose to do.

D. At the very least, this Court should permit KLC to intervene.

KLC has met all the elements required for intervention as of right under CR 24.01. But if this Court concludes otherwise, then the Court should at the very least grant KLC's motion for permissive intervention under CR 24.02. All KLC need establish to intervene under CR 24.02 is that its "claim or defense and the main action have a question of law or fact in common." CR 24.02. Here, KLC seeks to intervene so as to also pursue a ruling that HB 364 is constitutional and should be upheld irrespective of the ruling that is made as to any other act or piece of legislation. This raises a common issue with Count VII of the Amended Petition. This Court should thus permit KLC to intervene as it will not result in any prejudice or delay to the existing parties or remaining claims.

MOTION FOR LEAVE TO FILE OUTSIDE THE FILING DEADLINE

The Franklin Circuit Court Local Rule 4.01 requires motions to be filed five business (5) days before the date of the hearing. KLC did not learn about the scheduling of the June 27, 2018 hearing on the Motion to Strike until too late to meet this filing deadline. However, Local Rule 4.01 states that "the Court has discretion to grant leave to a party to file memoranda later than the date for filing." Given the unique circumstances involved, KLC asks this Court to grant it leave

to file the instant Motion to Intervene and allow it to be heard on June 27th along with the Motion to Strike.

CONCLUSION

For all the reasons stated herein, the Court should grant KLC's Motion to Intervene as a Defendant in this action. A proposed Answer to the Amended Petition is attached hereto at Exhibit A and tendered with the Motion to Intervene as required by CR 24.03.

Respectfully submitted,

/s/ Mindy G. Barfield

Barbara B. Edelman
Mindy G. Barfield
DINSMORE & SHOHL LLP
250 West Main Street, Suite 1400
Lexington, Kentucky 40507
Telephone: (859) 425-1000
Facsimile: (859) 425-1099
mindy.barfield@dinsmore.com
barbara.edelman@dinsmore.com
Counsel for Kentucky League of Cities

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of June, 2018, the foregoing Motion was filed electronically with the Court and copies served through the Court's electronic filing system and via First Class U.S. Mail, postage prepaid, to the following:

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

M. Stephen Pitt
S. Chad Meredith
Matthew F. Kuhn
OFFICE OF THE GOVERNOR
700 Capital Avenue, Suite 101
Frankfort, KY 40601

Brett R. Nolan
FINANCE AND ADMINISTRATION CABINET
OFFICE OF THE GENERAL COUNSEL
702 Capital Avenue, Rm. 392
Frankfort, KY 40601

Katharine E. Grabau
PUBLIC PROTECTION CABINET
OFFICE OF LEGAL SERVICES
656 Chamberlin Avenue, Suite B
Frankfort, KY 40601

Jeffrey Walther
WALTHER, GAY & MACK
163 E. Main St., Suite 200
Lexington, KY 40588

David Leightty
PRIDDY, CUTLER, NAAKE, MEADE
2303 River Road, Suite 300
Louisville, KY 40206

David Fleenor
Capitol Annex, Room 236
Frankfort, KY 40601

Eric Lycan
Office of the Speaker
Capitol Annex, Room 332
Frankfort, KY 40601

Mark Blackwell
1260 Louisville Road
Frankfort, KY 40601

Bill Johnson
JOHNSON BEARSE, LLP
326 W. Main St.
Frankfort, KY 40601

/s/ Mindy G. Barfield
Counsel for Kentucky League of Cities

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PLAINTIFFS

v.

ORDER

COMMONWEALTH OF KENTUCKY
ex rel. ANDY BESHEAR, ATTORNEY GENERAL *et al.*

DEFENDANTS

Upon motion of the Kentucky League of Cities to intervene in this case, and to file a late memoranda, and the Court being otherwise sufficiently advised,

IT IS HEREBY ORDERED that the motions are GRANTED. KLC is hereby permitted to intervene as a Defendant in this action for the purpose of asserting its interests in this case.

FRANKLIN CIRCUIT JUDGE

Date: _____

Tendered by,

/s/ Mindy G. Barfield
Barbara B. Edelman
Mindy G. Barfield
DINSMORE & SHOHL LLP
250 West Main Street, Suite 1400
Lexington, Kentucky 40507
Counsel for Kentucky League of Cities

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
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MATTHEW G. BEVIN, in his official capacity
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PETITIONER/PLAINTIFF

v.

COMMONWEALTH OF KENTUCKY
ex rel. ANDY BESHEAR, ATTORNEY GENERAL *et al.* RESPONDENT/DEFENDANT

INTERVENING DEFENDANT’S ANSWER TO AMENDED PETITION

Intervening Defendant Kentucky League of Cities (“KLC”), by and through its counsel, hereby submits this Answer to the Amended Petition of Plaintiffs Commonwealth of Kentucky *ex rel.* Matthew G. Bevin, Governor of the Commonwealth of Kentucky (“the Governor”) (“the Amended Petition”).

FIRST DEFENSE

The Amended Petition fails to state a claim upon which relief may be granted.

SECOND DEFENSE

The Amended Petition is barred by the doctrines of waiver, estoppel and/or laches.

THIRD DEFENSE

There is no present, actionable and justiciable controversy raised in the Amended Petition and therefore it is not a proper matter for declaratory relief under KRS 418.010 *et seq.* and/or CR

57.

EXHIBIT A

FOURTH DEFENSE

This Court lacks subject matter jurisdiction over this action.

FIFTH DEFENSE

For its Answer to the numbered paragraphs of the Amended Petition, KLC states and alleges as follows:

1. KLC admits the allegations in paragraph 1 of the Amended Petition to the extent that the standards for declaratory relief in KRS 418.010 *et seq.* and/or CR 57 apply to this action. KLC denies any remaining allegations, including that the matters set forth in the Amended Petition state a real, present and justiciable controversy for which declaratory relief shall be granted.

2. KLC admits the allegations in numerical paragraph 2 of the Amended Petition only to the extent it accurately states the language in KRS 418.010. All remaining allegations are denied.

3. KLC denies the allegations contained in numerical paragraph 3 of the Amended Petition.

4. KLC denies the allegations contained in numerical paragraph 4 of the Amended Petition.

5. KLC admits the allegations contained in numerical paragraph 5 of the Amended Petition.

6. KLC is without knowledge as to the truth or falsity of the allegations contained in numerical paragraph 6 of the Amended Petition and therefore denies those allegations.

7. KLC admits the allegations contained in numerical paragraph 7 of the Amended Petition.

8. KLC denies the allegations contained in numerical paragraph 8 of the Amended Petition.

9. KLC admits the allegations contained in numerical paragraph 9 of the Amended Petition.

10. KLC admits the allegations contained in numerical paragraph 10 of the Amended Petition.

11. KLC admits the allegations contained in numerical paragraph 11 of the Amended Petition only to the extent that it accurately sets forth the language in Section 34 of the Kentucky Constitution. All other allegations are denied.

12. KLC admits the allegations contained in numerical paragraph 12 of the Amended Petition.

13. KLC admits the allegations contained in numerical paragraph 13 of the Amended Petition.

14. KLC admits the allegations contained in numerical paragraph 14 of the Amended Petition only to the extent that it accurately sets forth the language in Section 56 of the Kentucky Constitution. All other allegations are denied.

15. With regard to the allegations contained in numerical paragraphs 15-39 and 96-98 of the Amended Petition, KLC states that, in its June 20, 2018 Opinion and Order, this Court rejected the Attorney's General's argument that SB 151 is unconstitutional because David Osborne signed it and he was not the House Speaker and presiding officer of the House whose signature is required under Section 56 of the Kentucky Constitution. This is the law of the case, and these allegations are thus irrelevant and/or moot. No response is required to them. In the event a response is required, KLC denies all such allegations as moot.

16. KLC admits the allegations contained in numerical paragraph 40 of the Amended Petition only to the extent that it accurately sets forth the language in Section 46 of the Kentucky Constitution. All other allegations are denied.

17. KLC admits the allegations contained in numerical paragraph 41 of the Amended Petition.

18. KLC admits the allegations contained in numerical paragraph 42 that neither the Kentucky Constitution or other rule or policy of the General Assembly specifically mandates that a bill as passed receive three readings in each chamber or that it receive additional readings if its title or subject matter change. All other allegations are denied.

19. KLC admits the allegations contained in numerical paragraph 43 of the Amended Petition.

20. KLC admits the allegations contained in numerical paragraph 44 of the Amended Petition to the extent that the Attorney General contends SB 151 is unconstitutional because of the failure of the General Assembly to comply with the three reading rule in Section 46 of the Kentucky Constitution. All other allegations are denied.

21. KLC admits the allegations contained in numerical paragraph 45 of the Amended Petition to the extent that the Attorney General contends SB 151 is unconstitutional because of the failure of the General Assembly to comply with the three reading rule in Section 46 of the Kentucky Constitution. All other allegations are denied.

22. KLC admits the allegations contained in numerical paragraph 46 of the Amended Petition to the extent that the Attorney General contends SB 151 is unconstitutional because of the failure of the General Assembly to comply with the three reading rule in Section 46 of the Kentucky Constitution. All other allegations are denied.

23. KLC admits the allegations contained in numerical paragraph 47 of the Amended Petition to the extent that a ruling on the Attorney General's Complaint that SB 151 is unconstitutional because of the failure of the General Assembly to comply with the three reading rule in Section 46 of the Kentucky Constitution could impact a future ruling on other legislation passed during the 2018 legislative session which also ran afoul of the three reading rule and come before this Court. All other allegations are denied.

24. KLC is without sufficient information to admit the truth or falsity of the allegations contained in numerical paragraph 48 of the Amended Petition, and therefore denies those allegations.

25. KLC admits the allegations contained in numerical paragraph 49 of the Amended Petition to the extent that a ruling on the Attorney General's Complaint that SB 151 is unconstitutional because of the failure of the General Assembly to comply with the three reading rule in Section 46 of the Kentucky Constitution could impact a future ruling on the continued validity of other current statutes if (i) the enabling legislation for those statutes was passed in violation of the three reading rule and (ii) those additional statutes are challenged and come before this Court. All other allegations are denied.

26. With regard to the allegations contained in numerical paragraphs 50-74, 81-91 and 114 of the Amended Petition, KLC states that KLC has no standing and/or does it seek to intervene and/or pursue a ruling that these various statutes referenced in these paragraphs are or are not unconstitutional because of a violation of the three-reading rule. As such no response is required to them. In the event a response is required, KLC admits those allegations which contend these statutes are constitutional. All other allegations are denied.

27. KLC admits the allegations contained in numerical paragraph 75 of the Amended

Petition only to the extent that it accurately sets forth the language in HB 362 of the Kentucky Constitution. All other allegations are denied.

28. KLC admits the allegations contained in numerical paragraph 76 of the Amended Petition.

29. KLC admits the allegations contained in numerical paragraph 77 of the Amended Petition.

30. KLC admits the allegations contained in numerical paragraph 78 of the Amended Petition.

31. KLC admits the allegations contained in numerical paragraph 79 of the Amended Petition.

32. KLC admits the allegations contained in numerical paragraph 80 of the Amended Petition.

33. The allegations contained in numerical paragraph 92 of the Amended Petition are legal conclusions and no response is required. If a response is required, KLC admits the allegations.

34. The allegations contained in numerical paragraph 93 of the Amended Petition are legal conclusions and no response is required. If a response is required, KLC admits the allegations.

35. The allegations contained in numerical paragraph 94 of the Amended Petition are legal conclusions and no response is required. If a response is required, KLC admits the allegations.

36. The allegations contained in numerical paragraph 95 of the Amended Petition are legal conclusions and no response is required. If a response is required, KLC admits the

allegations.

37. KLC admits the allegations contained in numerical paragraph 99 of the Amended Petition.

38. KLC denies the allegations contained in numerical paragraph 100 of the Amended Petition.

39. KLC denies the allegations contained in numerical paragraph 101 of the Amended Petition.

40. With regard to numerical paragraphs 102 of the Amended Petition, the facts and statements set forth in paragraphs 1-101 in this Answer are hereby incorporated by reference and set forth herein as if set out fully herein.

41. With regard to the allegations contained in numerical paragraphs 103-108, 119-125, 127-133, 135-142, 144-150 and 160-166 of the Amended Petition, KLC states that KLC has no standing and/or does it seek to intervene and/or pursue a ruling that these various statutes referenced in these paragraphs are or are not constitutional because of a violation of the three-reading rule. As such no response is required to them. In the event a response is required, KLC admits those allegations which contend these statutes are constitutional. All other allegations are denied.

42. With regard to numerical paragraphs 109 of the Amended Petition, the facts and statements set forth in paragraphs 1-108 in this Answer are hereby incorporated by reference and set forth herein as if set out fully herein

43. KLC admits the allegations contained in numerical paragraph 110 of the Amended Petition only to the extent that it accurately sets forth the language in Section 46 of the Kentucky Constitution. All other allegations are denied.

44. KLC admits the allegations contained in numerical paragraph 111 of the Amended Petition to the extent that the Attorney General contends SB 151 is unconstitutional because of the failure of the General Assembly to comply with the three reading rule in Section 46 of the Kentucky Constitution. All other allegations are denied.

45. KLC is without sufficient information as to the truth or falsity of the allegations contained in numerical paragraph 112 of the Amended Petition, and thus denies those allegations.

46. KLC admits the allegations contained in numerical paragraph 113 of the Amended Petition to the extent that a ruling on the Attorney General's Complaint that SB 151 is unconstitutional because of the failure of the General Assembly to comply with the three reading rule in Section 46 of the Kentucky Constitution could impact a future ruling on other legislation passed during the 2018 legislative session which also ran afoul of the three reading rule and which comes before this Court. All other allegations are denied.

47. KLC denies the allegations contained in numerical paragraph 115 of the Amended Petition.

48. With regard to the allegations contained in numerical paragraph 116, and/or if this Court entertains the Amended Petition and determines that a sufficient present, actual, justiciable controversy exists, KLC then admits that HB 362 should be declared constitutional. All other allegations are denied.

49. With regard to the allegations contained in numerical paragraph 117, and/or if this Court entertains the Amended Petition and determines that a sufficient present, actual, justiciable controversy exists, KLC then admits that HB 362 should be declared constitutional. All other allegations are denied.

50. With regard to numerical paragraph 118 of the Amended Petition, the facts and statements set forth in paragraphs 1-117 in this Answer are hereby incorporated by reference and set forth herein as if set out fully herein.

51. With regard to numerical paragraph 126 of the Amended Petition, the facts and statements set forth in paragraphs 1-125 in this Answer are hereby incorporated by reference and set forth herein as if set out fully herein.

52. With regard to numerical paragraph 134 of the Amended Petition, the facts and statements set forth in paragraphs 1-133 in this Answer are hereby incorporated by reference and set forth herein as if set out fully herein.

53. With regard to numerical paragraph 1-143 of the Amended Petition, the facts and statements set forth in paragraphs 1-142 in this Answer are hereby incorporated by reference and set forth herein as if set out fully herein.

54. With regard to numerical paragraph 1-151 of the Amended Petition, the facts and statements set forth in paragraphs 1-150 in this Answer are hereby incorporated by reference and set forth herein as if set out fully herein.

55. KLC admits the allegations contained in numerical paragraph 152 of the Amended Petition only to the extent that it accurately sets forth the language in Section 46 of the Kentucky Constitution. All other allegations are denied.

56. KLC admits the allegations contained in numerical paragraph 153 of the Amended Petition only to the extent that it accurately sets forth the language in HB 362. All other allegations are denied.

57. KLC admits the allegations contained in numerical paragraph 154 of the Amended Petition.

58. KLC admits the allegations contained in numerical paragraph 155 of the Amended Petition to the extent that the Attorney General contends SB 151 is unconstitutional because of the failure of the General Assembly to comply with the three reading rule in Section 46 of the Kentucky Constitution. All other allegations are denied.

59. KLC admits the allegations contained in numerical paragraph 156 of the Amended Petition to the extent that a ruling on the Attorney General's Complaint that SB 151 is unconstitutional because of the failure of the General Assembly to comply with the three reading rule in Section 46 of the Kentucky Constitution could impact a future ruling on other legislation passed during the 2018 legislative session which also ran afoul of the three reading rule and which comes before this Court. All other allegations are denied.

60. KLC denies the allegations contained in numerical paragraph 157 of the Amended Petition.

61. With regard to the allegations contained in numerical paragraph 158, and/or if this Court entertains the Amended Petition and determines that a sufficient present, actual, justiciable controversy exists, KLC then admits that HB 362 should be declared constitutional. All other allegations are denied.

62. With regard to numerical paragraph 159 of the Amended Petition, the facts and statements set forth in paragraphs 1-158 in this Answer are hereby incorporated by reference and set forth herein as if set out fully herein.

63. Any and all allegations not admitted or denied herein are hereby denied.

64. With regard to the Prayer for Relief found in the Amended Petition, KLC states that if this Court entertains the Amended Petition and determines that a sufficient present, actual, justiciable controversy exists, then this Court should declare that HB 362 is valid and not

unconstitutional.

WHEREFORE the Intervening Defendant Kentucky League of Cities hereby requests that the Amended Petition be dismissed, with prejudice, and that it receive any and all relief to which it is entitled.

Respectfully submitted,

/s/ Mindy Barfield
Barbara B. Edelman
Mindy G. Barfield
DINSMORE & SHOHL LLP
250 West Main Street, Suite 1400
Lexington, Kentucky 40507
Telephone: (859) 425-1000
Facsimile: (859) 425-1099
mindy.barfield@dinsmore.com
barbara.edelman@dinsmore.com
Counsel for Kentucky League of Cities

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of June, 2018, the foregoing Answer was filed electronically with the Court and copies served through the Court's electronic filing system and via First Class U.S. Mail, postage prepaid, to the following:

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

M. Stephen Pitt
S. Chad Meredith
Matthew F. Kuhn
OFFICE OF THE GOVERNOR
700 Capital Avenue, Suite 101
Frankfort, KY 40601

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FINANCE AND ADMINISTRATION CABINET
OFFICE OF THE GENERAL COUNSEL
702 Capital Avenue, Rm. 392
Frankfort, KY 40601

Katharine E. Grabau
PUBLIC PROTECTION CABINET
OFFICE OF LEGAL SERVICES
656 Chamberlin Avenue, Suite B
Frankfort, KY 40601

Jeffrey Walther
WALTHER, GAY & MACK
163 E. Main St., Suite 200
Lexington, KY 40588

David Leightty
PRIDDY, CUTLER, NAAKE, MEADE
2303 River Road, Suite 300
Louisville, KY 40206

David Fleenor
Capitol Annex, Room 236
Frankfort, KY 40601

Eric Lycan
Office of the Speaker
Capitol Annex, Room 332
Frankfort, KY 40601

Mark Blackwell
1260 Louisville Road
Frankfort, KY 40601

Bill Johnson
JOHNSON BEARSE, LLP
326 W. Main St.
Frankfort, KY 40601

/s/ Mindy G. Barfield
Counsel for Kentucky League of Cities