

COMMONWEALTH OF KENTUCKY
SUPREME COURT
CASE NOS. 2018-SC-000419, 2018-SC-000421

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

APPELLANTS,

v.

On Appeal From Franklin Circuit Court, Div. I
Nos. 18-CI-379, 18-CI-414

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

APPELLEES.

NOTICE OF ISSUES TO BE ARGUED

Respectfully submitted,



M. Stephen Pitt
S. Chad Meredith
Matthew F. Kuhn
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Frankfort, Kentucky 40601

CERTIFICATE OF SERVICE

I certify that a copy of this filing was served on September 14, 2018 by first-class mail to Hon. Samuel P. Givens, Jr., Clerk, Kentucky Court of Appeals, 360 Democrat Drive, Frankfort, KY 40601; Hon. Phillip J. Shepherd, Judge, 222 St. Clair Street, Frankfort, KY 40601; Hon. Andy Beshear, J. Michael Brown, La Tasha Buckner, S. Travis Mayo, Marc G. Farris, & Samuel Flynn, Office of the Attorney General, 700 Capital Avenue, Suite 118, Frankfort, KY 40601 (also served via email); Jeffrey Walther & Victoria Dickson, Walther, Gay & Mack, 163 E. Main St., Suite 200, Lexington, KY 40588 (also served via email); David Leighty & Alison Messex, Priddy, Cutler, Naake, Meade, 2303 River Road, Suite 300, Louisville, KY 40206 (also served via email); David Fleenor & Vaughn Murphy, Office of the Senate President, Capitol Annex, Room 236, Frankfort, KY 40601 (also served via email); Eric Lycan, Office of the Speaker, Capitol Annex, Room 332, Frankfort, KY 40601 (also served via email); Mark Blackwell, Katherine Rupinen, & Joseph Bowman, Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, KY 40601 (also served via email); & Robert B. Barnes, Teachers' Retirement System, 479 Versailles Road, Frankfort, KY 40601 (also served via email).



Under CR 76.16(5)(b), Governor Bevin provides notice that he intends to argue the following issues in order at oral argument on September 20, 2018:¹

1. SB 151 does not impair the inviolable contract. [Op. Br. at 26-47, Argument Part I.A-C; Reply Br. at 2-7, Argument Part I].

2. SB 151 does not violate Section 19 of the Kentucky Constitution. [Op. Br. at 47-58, Argument Part I.D; Reply Br. at 7-8, Argument Part I].

3. The Appellees' three-readings argument is unavailing. [Op. Br. at 58-74, Argument Part II; Reply Br. at 9-16, Argument Part II].

4. The Appellees did not plead that SB 151 violates Section 46 of the Constitution for failing to receive 51 votes in the Kentucky House and, thus, that claim was not properly before the circuit court and is not properly before this Court. [Op. Br. at 74-78, Argument Part III.A; Reply Br. at 20-21, Argument Part III].

5. SB 151 is not an appropriation of money or creation of a debt under Section 46 of the Constitution. [Op. Br. at 78-94, Argument Part III.B-D; Reply Br. at 17-18, 22, Argument Part III].

6. If SB 151 required 51 votes in the House, any offending provisions should be severed from the remainder of the Act. [Op. Br. at 94-97, Argument Part III.E; Reply Br. at 18-20, Argument Part III].

7. To the extent the Court raises the issues, the Appellees' alternative bases for affirmance are meritless. [Reply Br. at 22-25, Argument Parts IV-VI].

¹ The Civil Rules state that this notice shall be filed at least 10 days before oral argument. *See* CR 76.16(5)(b). However, because the briefing in this matter did not close until less than 10 days before oral argument, good cause exists to alter this deadline. *See id.* (allowing an exception if "good cause" exists). An appellant cannot reasonably be expected to list the issues to be argued and the order of oral argument until after briefing closes.

8. The Attorney General should have been disqualified as counsel in this case.

[Op. Br. at 97-99, Argument Part IV].

Respectfully submitted,



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