



400 West Market Street
Suite 2000
Louisville, KY 40202
502.589.5235
Fax: 502.589.0309

MEMORANDUM

TO: Matt Robbins and Tom Shelton
CC: Byron Leet, Mitzi Wyrick and Sean Williamson
FROM: Wyatt Tarrant & Combs LLP
DATE: July 13, 2021
RE: Summary of *Council for Better Education, et al v. Holly M. Johnson, in her official capacity as Secretary of Kentucky Finance and Administration Cabinet, et al* as of July 12, 2021

I. HB 563 Implementation. The Finance Cabinet filed an affidavit on July 2, 2021 stating that HB 563 will not be fully implemented — no AGO could possibly be approved — before October 11, 2021.

II. Court Ordered Scheduling. The Court concluded a zoom pretrial conference on July 7, 2021 and entered an order as follows:

A. The Court desires a bench trial to hear evidence on how HB 563 will be implemented, its impact on the funding of common schools under the SEEK program and its impact on the legislature's constitutional duty to provide for an efficient system of common schools under Ky. Const. § 183.

B. The Court ordered the parties to meet and confer to develop stipulations of agreed facts, which must be filed by August 2, 2021. If certain facts cannot be stipulated, the parties must by the same date identify areas of factual dispute.

July 13, 2021

Page 2

C. The Court ordered the parties to address all relevant factual issues in the stipulation, including the impact, if any, that \$25 million in tax credits per year will have on the public schools and on SEEK funding for public schools.

D. The Court set a briefing schedule for summary judgment motions:

- 1.** Any party or intervenor may file a dispositive motion by August 9, 2021;
- 2.** Responses to those motions are due by August 23, 2021; and
- 3.** Replies to responses shall be filed by August 30, 2021.

E. The Court will hear oral argument on the motions on September 16, 2021 at 2:00 p.m.

F. If the Court determines that issues of fact exist after the hearing on the dispositive motions, the Court will schedule a bench trial.

G. The Court ordered that our motion for injunctive relief is withdrawn without prejudice. The Department of Revenue must give the Court and all parties 20 days advance notice of any preliminary approval of an AGO. We then have five days from the Department's notice to renew our motion for temporary injunction.