

Background to the Reorganization of the UofL Board of Trustees

On June 17, 2016, by executive order, the Governor of the Commonwealth of Kentucky dissolved the University of Louisville Board of Trustees, citing his authority under the Kentucky Constitution and Kentucky Revised Statute (KRS) 12.028, which states:

- (1) *Recognizing the necessity for grouping related functions of organizational units and administrative bodies in order to promote greater economy, efficiency and improved administration, the Governor, the Kentucky Economic Development Partnership as created in KRS 154.10-010, and other elected state executive officers may propose to the General Assembly, for its approval, changes in the state government organizational structure which may include the creation, alteration or abolition of any organizational unit or administrative body and the transfer of functions, personnel, funds, equipment, facilities, and records from one (1) organizational unit or administrative body to another.*

The intent of the governor to reorganize the UofL board based on KRS 12.028 led to legal action by the Kentucky Attorney General contesting the use of this particular state statute for that purpose. The judge who ruled over the litigation resulting from the governor's action determined that KRS 12.028 was not applicable to postsecondary education.

The impasse was eventually addressed by the Kentucky General Assembly with the development and passage of Senate Bill (SB) 12 on January 7, 2017 (signed into law by the Governor on January 9, 2017) and Senate Bill (SB) 107 on March 15, 2017 (signed into law by the Governor on March 21, 2017).

The passage of these two important pieces of legislation amended several Board-related state statutes and clarified the process for making gubernatorial appointments not only at the University of Louisville (SB12) but for all of higher education in Kentucky (SB 107).

Senate Bill 12:

- gave authority for the appointment of a new Board of Trustees for the University of Louisville compliant with state law as provided in KRS 164.830 (Powers of the Board) and KRS 164.821 (Membership—Terms).
- reduced the number of University of Louisville Board of Trustees appointed by the governor from seventeen to ten [SB 12 Section 1(10)].
- transferred to the newly appointed board all authority, duties, functions, responsibilities, records, equipment, staff, and supporting budgets along with all rights, powers, duties, and obligations as set forth in the Kentucky Revised Statutes and other relevant provisions of the law vested in the former Board of Trustees of the University of Louisville (SB 12 Section 5).

- provided that nominations to the Board of Trustees be submitted to the Governor by the governor's Postsecondary Education Nominating Committee: *"Upon the effective date of this Act and in accordance with KRS 164.005, the Governor's Postsecondary Education Nominating Committee shall as soon as practicable submit thirty nominations from which the Governor shall select ten for appointment to a newly established board of trustees"* [SB 12 Section 3].
- required that the Governor-appointed Board members be confirmed by the Kentucky State Senate. *"The ten appointees shall be subject to confirmation by the Senate"* [SB 12, Section 3].

Senate Bill 107:

- addressed the legal issues associated with the Governor's executive orders using KRS 12.028
- amended several state statutes related to the appointment to the Board of Trustees for the University of Kentucky and the University of Louisville; the Board of Regents at the Kentucky regional post-secondary education institutions (Eastern Kentucky University, Western Kentucky University, Morehead State University, Kentucky State University, Northern Kentucky University, Murray State University, and the Kentucky Community and Technical College System); the Kentucky Board of Education; and the Kentucky Council on Postsecondary Education.
- established processes for the appointment and dismissal of individual board members or an entire board.

Choosing from a list of nominees submitted by the Governor's Postsecondary Education Nominating Committee and following the revised state statute, on January 17, 2017 the Governor of Kentucky appointed ten new members to the UofL Board of Trustees. These ten new members joined three continuing members (the chair of the university's faculty senate, the chair of the staff senate, and the student body president) to form a new board of trustees with thirteen members. More information about the UofL Board of Trustees is available online at <http://louisville.edu/president/board-of-trustees>

The passage of these two important pieces of legislation have helped to clarify the process of making gubernatorial appointments not only at the University of Louisville (SB12) but for all institutions of higher education in Kentucky (SB107). These state laws have also amended the process for the dismissal of individual Board members and have established a new process for the dismissal of entire Boards for Kentucky higher education institutions. The processes delineated in SB 107 address the legal issues associated with the governor's executive orders using KRS 12.028 and establish processes based on the state laws applicable to higher education in Kentucky.