



PAUL E. PATTON  
GOVERNOR

EXECUTIVE ORDER

Secretary of State  
Frankfort  
Kentucky

2002-727  
June 26, 2002

**RELATING TO TEMPORARY EMERGENCY EXPENDITURES PROVIDING FINANCING FOR THE OPERATIONS, MAINTENANCE, SUPPORT, AND FUNCTIONING OF THE GOVERNMENT OF THE COMMONWEALTH OF KENTUCKY AND ITS VARIOUS OFFICERS, CABINETS, DEPARTMENTS, BOARDS, COMMISSIONS, INSTITUTIONS, SUBDIVISIONS, AGENCIES, AND OTHER STATE-SUPPORTED ACTIVITIES FOR FISCAL YEAR BEGINNING JULY 1, 2002 AND ENDING JUNE 30, 2003.**

WHEREAS, under KRS 48.300, KRS 48.950, and Sections 171 and 230 of the Kentucky Constitution, the General Assembly is empowered to raise and appropriate revenue and approve and adopt a balanced budget for the operation, maintenance, support and functioning of the Government of the Commonwealth of Kentucky; and

WHEREAS, the Regular Session of the General Assembly convened on January 8, 2002, and thereafter enacted a budget for the Legislative Branch but adjourned sine die on April 15, 2002 without enacting a budget for the Executive Branch or for the Court of Justice for the fiscal year beginning July 1, 2002; and

WHEREAS, the General Assembly was, by Proclamation of the Governor, convened in Extraordinary Session on April 22, 2002, for the sole purpose of enacting a comprehensive budget measure, but failed in its efforts and once again adjourned, sine die, without enacting a comprehensive appropriations measure to govern the fiscal policy of the state for the fiscal year beginning July 1, 2002; and

WHEREAS, there is no express comprehensive statutory plan directing how the Commonwealth is to proceed in the event that the General Assembly fails or refuses to enact a comprehensive budget; and

WHEREAS, the absence of a complete spending plan imperils the health, safety and welfare of the Commonwealth by, *inter alia*:



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- (1) putting at risk billions of federal fund dollars, the receipt of which is conditioned upon the availability of state matching funds;
- (2) curtailing the economic prosperity and growth potential of the Commonwealth, and potential employment opportunities for Kentuckians;
- (3) endangering the land, water and air resources of the Commonwealth;
- (4) imperiling state emergency and disaster response systems, including local 911 operators;
- (5) disrupting operations of myriad state facilities including but not limited to prisons, schools, mental hospitals, children's homes and veterans' nursing home facilities;
- (6) obstructing the revenue collection processes of state and local governments;
- (7) jeopardizing the bond rating of the Commonwealth;
- (8) impeding timely payments from the State Treasury for goods received and services performed that are necessary for the day-to-day operations and maintenance of the programs and facilities of the Commonwealth; and
- (9) endangering the continuity and availability of services to all citizens of the Commonwealth; and

**WHEREAS**, pursuant to Sections 69 and 81 of the Kentucky Constitution, the supreme executive power of the Commonwealth is vested in the Governor and the Governor is explicitly empowered and mandated to "take care that the laws be faithfully executed"; and

**WHEREAS**, the expenditure of public funds is necessary in order for the Governor to fulfill his constitutionally mandated duty to faithfully execute the laws and provide for the common welfare of the Commonwealth as its Chief Magistrate; and

**WHEREAS**, because the General Assembly failed to carry out its constitutional and statutory duty to enact a comprehensive balanced budget during the 2002 Regular and Special Sessions, the Commonwealth is now confronted with an emergency requiring



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action by the Executive Branch to continue the operation of the government of the Commonwealth of Kentucky, including providing financing from available revenue for the continued operation of government;

NOW, THEREFORE, I, PAUL E. PATTON, Governor of the Commonwealth of Kentucky, by virtue of authority vested in me by the Kentucky Constitution and in particular Sections 69 and 81, and as further vested in me by the laws of the Commonwealth, do hereby FIND, DECLARE, ORDER AND DIRECT the following:

1. That a state of emergency exists in the Commonwealth due to the failure of the General Assembly to enact a budget for the Executive Branch or the Court of Justice as constitutionally and statutorily required for the fiscal period beginning July 1, 2002 and ending June 30, 2003.
2. The declared emergency poses a direct and serious imminent risk of harm to the preservation of order, the administration of justice and the protection of the public health and property, all of which are fundamental purposes of government.
3. The sound and orderly management of the people's business mandates that any disruption of services due to the failure of the General Assembly to enact a comprehensive balanced budget should be minimized, and that state services must therefore be provided on a predictable, regular and established schedule.
4. These services should and must be provided to the extent possible within the reasonable boundaries of anticipated revenues which, for the fiscal year beginning July 1, 2002 and ending June 30, 2003, have been forecast pursuant to statutorily recognized estimating procedures in the amounts reflected in the funding summary attached hereto as Exhibit A and incorporated herein by reference.



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5. As reflected in Exhibit A, through its adoption of House Bill 657, the General Assembly has made appropriations for the use of the Legislative Branch totaling \$ 36,515,900, leaving \$ 18,187,941,616 in previously estimated revenues identified for use by the Executive Branch and the Court of Justice for the operation and function of their respective branches of government.
6. The authority of the Governor, pursuant to Sections 69 and 81 of the Kentucky Constitution, to cause the expenditure from the State Treasury of such available funds as may be necessary for the operation of government and the execution of the laws of the Commonwealth by the Executive Branch is hereby recognized. The authority of the Chief Justice, as executive head of the Court of Justice, pursuant to Sections 110 and 120 of the Kentucky Constitution, to issue warrants as may be necessary to cause the expenditure of funds for the compensation and necessary expenses of the Court of Justice is hereby recognized. Accordingly, the Secretary of the Finance and Administration Cabinet is hereby authorized to issue warrants for the payment of all claims as may be made by the Executive Branch of government in accordance with the Executive Spending Plan outlined in the Order of the Secretary of the Finance and Administration Cabinet issued concurrently herewith, and to assist the Court of Justice as may be necessary to implement lawful expenditures for its operation, taking into consideration the available financial resources and the competing financial obligations of the Commonwealth.
7. Pursuant to this Order and in accordance with KRS 48.400 et seq., the Secretary of the Finance and Administration Cabinet shall also have the authority, after consultation with the State Budget Director, to make adjustments to the general revenue allocation summary attached hereto,



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including the authority to transfer funds from one account to another, as may be necessary to protect the financial interests of the state.

8. In addition to the monthly reports as to the financial condition of the state and its budget units required by KRS 48.400, the Secretary of the Finance and Administration Cabinet shall make monthly reports to the Governor, the Chief Justice and the Legislative Research Commission on all expenditures authorized pursuant to this order.
9. Unless otherwise directed by the issuance of a subsequent Executive Order, all state personnel normally scheduled for duty shall continue to report for service at their usual duty station at their regularly scheduled hours pursuant to state law.
10. All state agencies and department heads are hereby authorized to perform such lawful acts as may be undertaken to implement the provisions of this Order.
11. The provisions of this Order shall remain in full force and effect until July 1, 2003, unless sooner rescinded or superseded by subsequent Executive Order or by legislative enactment of a budget.
12. This Order shall become effective immediately upon filing with the Secretary of State.

Paul E. Patton, Governor  
Commonwealth of Kentucky

John Y. Brown III, Secretary of State

## Exhibit A

FY 2002-2003

### Total Funds Available

General Fund	7,146,455,200
General Fund - Tobacco	125,600,000
Restricted Funds	4,278,503,516
Federal Funds	5,442,950,500
Road Fund	1,097,539,300
Capital Construction Surplus	2,540,000
Investment Income	22,194,000
Deferred Maintenance	957,000
Other Funds	105,918,000
Emergency Repair, Replacement and Maintenance	1,000,000
Capital Construction Contingency	800,000

**Total-Funds Available** 18,224,457,516

### Less Legislative Branch Appropriations:

General Fund	36,450,400
Restricted Funds	65,500

**Total-Legislative Branch Appropriations** 36,515,900

### Less Reserve for Court of Justice:

General Fund	200,368,100
Restricted Funds	11,126,100
Federal Funds	1,412,200

**Total-Reserve for Court of Justice** 212,906,400

### Funds Available to Executive Branch

General Fund	6,909,636,700
General Fund - Tobacco	125,600,000
Restricted Funds	4,267,311,916
Federal Funds	5,441,538,300
Road Fund	1,097,539,300
Capital Construction Surplus	2,540,000
Investment Income	22,194,000
Deferred Maintenance	957,000
Other Funds	105,918,000
Emergency Repair, Replacement and Maintenance	1,000,000
Capital Construction Contingency	800,000

**Total-Funds Available to Executive Branch** 17,975,035,216