UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION AT FRANKFORT

Electronically Filed

SAMANTHA WIGGINTON, *et al.*,

Plaintiffs,

v.

COMMONWEALTH OF KENTUCKY, *et al.*,

Defendants.

CIVIL No. 3:26-cv-00035-CHB

DEFENDANT MILLER'S RESPONSE TO PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER [DN 2]

Defendant, Thomas B. Miller, in his official capacity as the Commissioner of the Department of Revenue, Finance and Administration Cabinet, Commonwealth of Kentucky ("Commissioner Miller"), by and through counsel, submits this Response to Plaintiffs' Motion for a Temporary Restraining Order [DN 2].

Plaintiffs seek an order restraining Defendants from implementing Senate Bill 185 (R.S. 2026), [DN 2, Page ID## 5-6]. However, Plaintiffs' motion for a temporary restraining order neither references nor seeks to enjoin Commissioner Miller or officers, agents, or employees of the Department of Revenue. [Doc. 2, ID## 5-6].

Section 4 of Senate Bill 185 is the only section of the bill related to the Department of Revenue. That section addresses duties of Kentucky State University to diligently attempt to collect debts. Under Section 4(1)(a), the University is to refer all debts in excess of one thousand dollars ($1,000) that have been due and owing for more than ninety (90) days to the Department

of Revenue for collection in accordance with Kentucky Revised Statutes (KRS) 45.238. Under KRS 45.238, the Department of Revenue has authority to collect debts certified by an agency or local government and referred to it for collection. Yet Plaintiffs do not seek to enjoin Commissioner Miller or the Department of Revenue from accepting debt referrals from Kentucky State University in their motion.[1]

Furthermore, House Bill 379 (R.S. 2026) authorizes the Department of Revenue to collect enrollment-related debts referred to it for collection by public postsecondary education institutions in Kentucky and covers *all* public universities. Therefore, even if the Commissioner were enjoined from performing the debt-collection or tax-intercept provisions of Senate Bill 185, he would still have independent authority to perform those duties pursuant to other provisions of the law.

Section 4(2) of Senate Bill 185 provides that, "notwithstanding KRS 131.565 or any other statute to the contrary, the Department of Revenue shall not decline the withholding of individual income tax refunds for debts referred to the department by Kentucky State University." Even before Senate Bill 185 was enacted, the Department of Revenue had a statutory duty to withhold the Kentucky individual income tax refund otherwise due to a taxpayer who is indebted to a state agency or institution. *See* KRS 131.560, *et seq.*; KRS 131.130(11). Thus, the only effect of Senate Bill 185 is to mandate withholding of individual tax refunds at the request of Kentucky State University regardless of KRS 131.565(8) authorizing the Department of Revenue "to decline the withholding of individual income tax refunds from agencies if the request would adversely impact the operation of the department."

[1] Subsections (1)(b) and (1)(c) of Section 4 do not implicate Commissioner Miller or the Department of Revenue. Rather, these provisions expressly guarantee that Kentucky State University has "an unfettered right" to intercept federal and state income tax refunds pursuant to applicable federal regulations and state statutes to satisfy debts.

Senate Bill 185 does not assign to the Department of Revenue any authority regarding Kentucky State University that Kentucky law does not already provide the Department for *all* public universities. Therefore, maintaining the pre-April 13, 2026, *status quo* via a temporary restraining order would result in a legal nullity, as the Commissioner was vested with the authority to withhold "individual income tax refunds for debts referred to the department by Kentucky State University" both before and after enactment of Senate Bill 185. With that said, Plaintiffs' motion does not even seek to restrain or enjoin Commissioner Miller or the Department of Revenue from withholding individual income tax refunds due to a taxpayer who is indebted to Kentucky State University. As a result, there is no requested relief that the Court could grant with regard to Commissioner Miller, and a temporary restraining order against him would have no legally binding effect because there is no action of Commissioner Miller or Department of Revenue officers and employees to enjoin or restrain. As such, the Court should deny Plaintiffs' motion as to Commissioner Miller.

Furthermore, Commissioner Miller is not a proper party to this action. On its face, Plaintiffs' Complaint fails to raise an actual case or controversy against Commissioner Miller and fails to allege that any actions of Commissioner Miller or Department of Revenue officers and employees have caused their alleged injury. Thus, Plaintiffs lack standing and fail to state a claim upon which relief can be granted as to Commissioner Miller.

The Court should deny Plaintiffs' motion as to Commissioner Miller. Fed. R. Civ. P. 12(b)(6); *Berk v. Choy*, 607 U.S. 187, 193 (2026).

CONCLUSION

For the foregoing reasons, Plaintiffs' Motion for Temporary Restraining Order as to Commissioner Miller should be DENIED.

Respectfully submitted,

/s/ Catherine A. Poole
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CERTIFICATE OF SERVICE

I hereby certify that on May 27, 2026, I electronically filed the foregoing Response to Plaintiffs' Motion for Temporary Restraining Order via the Court's CM/ECF system, causing counsel of record to be served.

/s/ Catherine A. Poole
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