

**278.712 Local public hearing -- Procedure -- Parties -- Action to vacate or set aside ruling.**

- (1) The board may convene a local public hearing upon receipt of a request by not less than three (3) interested persons that reside in a county or municipal corporation in which the facility is proposed to be constructed to consider the application for a construction certificate. The board shall convene a local public hearing in response to a request from the planning and zoning commission, mayor of a city, or county fiscal court of a jurisdiction where the facility is proposed to be located. If the facility is proposed to be located in more than one (1) county, the board may convene a local public hearing and the hearing shall be held in the county with the largest population not more than sixty (60) days after receipt of a completed application. Absent the minimum number of requests for a local public hearing, the board may conduct all evidentiary proceedings in Franklin County.
- (2) In any hearing on an application for a construction certificate, the board shall not be bound by the technical rules of legal evidence. Any hearing shall be conducted pursuant to and in conformance with rules and requirements set forth by the board in administrative regulations promulgated pursuant to KRS 278.702(2).
- (3) The parties to a proceeding before the board shall include:
  - (a) The applicant; and
  - (b) Any person having been granted the right of intervention pursuant to subsection (4) of this section.
- (4) Any interested person, including a person residing in a county or municipal corporation in which the facility is proposed to be constructed may, upon motion to the board, be granted leave to intervene as a party to a proceeding held pursuant to this section.
- (5) Any party to a proceeding held pursuant to this section or any final determination pursuant to KRS 278.710 may, within thirty (30) days after service of the board's final ruling, bring an action against the board in the Circuit Court of the county in which the facility is proposed to be constructed to vacate or set aside the ruling on grounds that the ruling is arbitrary, capricious, or otherwise unlawful or unreasonable. Any party instituting an action for review of the board's ruling in the Circuit Court of the county in which the facility is proposed to be constructed shall give notice to all parties of record in the board's proceeding.

**Effective:** April 24, 2002

**History:** Created 2002 Ky. Acts ch. 365, sec. 7, effective April 24, 2002.