

CHAPTER 287 (SB 192)

AN ACT relating to the Kentucky River Authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.016 is amended to read as follows:

The following corporate bodies and instrumentalities of the Commonwealth shall be attached to the Office of the Secretary for administrative purposes and staff services:

- (1) State Property and Buildings Commission;
- (2) Kentucky Pollution Abatement Authority;
- (3) Kentucky Savings Bond Authority;
- (4) County Officials Compensation Board;
- (5) Kentucky Turnpike Authority;
- (6) State Investment Commission;
- (7) Kentucky Housing Corporation;~~and~~
- (8) Governmental Services Center; *and*
- (9) ***Kentucky River Authority.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

The Kentucky River Authority is created to perform the essential governmental functions and public purposes set out in KRS 151.700 to 151.730. The authority shall be a public corporation and independent governmental agency and instrumentality of the state. The responsibilities of the authority shall be managed and implemented by a board of directors as set out in Section 3 of this Act.

Section 3. KRS 151.710 is amended to read as follows:

- (1) The Governor shall appoint members to the Kentucky River Authority, created to carry out the essential public purpose of protecting the health and welfare of the people of the Commonwealth as declared in KRS 151.700.
- (2) The Governor shall appoint the ***secretaries***~~[secretary]~~ of the ***Finance and Administration Cabinet and the*** Natural Resources and Environmental Protection Cabinet and ten (10) other persons as the members of the authority. The ***secretaries***~~[secretary]~~ may designate ***alternates***~~[an alternate]~~. Of the ten (10) persons, one (1) shall be a registered engineer, one (1) an expert in water quality, one (1) a mayor, and one (1) a county judge/executive. The mayor and the county judge/executive shall be officers from counties which obtain the major portion of their water supply from the Kentucky River. Five (5) members shall reside in a county adjacent to the main stem of the Kentucky River, one (1) of the five (5) members residing in counties adjacent to locks and dams one (1) through four (4); and one (1) member shall reside in a county adjacent to either the North Fork, Middle Fork, or South Fork of the Kentucky River. ***Of the twelve (12) members only one (1) may be an employee of the Natural Resources and Environmental Protection Cabinet.***

- (3) Of the ten (10) members first appointed, two (2) shall continue in office for terms of one (1) year, two (2) for terms of two (2) years, three (3) for terms of three (3) years, and three (3) for terms of four (4) years, as the Governor designates. At the expiration of the original terms and for all succeeding terms, the Governor shall appoint a successor to the authority for a term of four (4) years in each case. Members may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term.
- (4) Each member shall receive as compensation one hundred dollars (\$100) per day for attending a meeting of the authority.
- (5) Any member who misses three (3) consecutive meetings of the authority shall be deemed to have vacated the office. The authority shall declare the office vacant and the office shall be filled as provided by subsections (2) and (3) of this section.
- (6) The authority annually shall elect one (1) of its members as chairman. A quorum for the transaction of business shall be six (6) members, and a majority of the members present at a meeting may take action on any matter legally before the authority.
- (7) Members shall be paid their necessary travel expenses incurred in attending meetings and in the performance of their official duties, in addition to the per diem compensation of one hundred dollars (\$100).
- (8) The authority shall meet at least quarterly, and may meet upon the call of the chairman.
- (9) The chairman shall be paid necessary travel expenses and a one hundred dollar (\$100) per diem compensation for conducting official business of the authority.
- (10) The authority shall be attached for administrative purposes to the ***Finance and Administration***~~[Natural Resources and Environmental Protection]~~ Cabinet, and the cabinet shall provide the necessary personnel to provide administrative services for the authority.
- (11) The necessary travel expenses and per diem compensation of the members of the authority in attending meetings and in the performance of their official duties shall be paid by the authority.
- (12) The authority shall promulgate administrative regulations necessary to carry out its duties, and shall report annually to the Governor and the Legislative Research Commission.

Section 4. KRS 151.720 is amended to read as follows:

The Kentucky River Authority is authorized and empowered to:

- (1) Construct, reconstruct, provide for the major maintenance, or repair the locks and dams on the Kentucky River and all real and personal property pertaining thereto, as well as maintain the channel;
- (2) Acquire by purchase, exercise of the rights of eminent domain, grant, gift, devise, or otherwise, the fee simple title to or any acceptable lesser interest in any real or personal property and by lease or other conveyance, contract for the right to use and occupy any real or personal property selected in the discretion of the authority as constituting necessary, desirable, or acceptable sites to fulfill its statutory authority and power;

- (3) Lease its real or personal property to other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons as the authority deems necessary to carry out the purposes of this section;
- (4) Sell or otherwise dispose of its real or personal property in accordance with KRS 56.463 and 45A.045;
- (5) Collect water use fees from all facilities using water from the Kentucky River basin, except those facilities using water primarily for agricultural purposes. Facilities charged such a fee may pass on all or any part of the fee;
- (6) Issue revenue bonds in accordance with KRS 151.730;
- (7) Employ persons to carry out the authority's responsibilities with revenue from the water use fees, including an executive director who shall serve at the pleasure of the authority;
- (8) Contract for services with other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons to perform its duties;
- (9) Promulgate administrative regulations providing for clean water, which shall not be less stringent than the state and federal regulations for clean water;
- (10) Exercise all other powers necessary to perform its public purpose to implement and enforce the plans developed by the authority pursuant to this section *and Sections 5 and 6 of this Act*, and to enforce administrative regulations promulgated by the authority. The long-range water resource plan and drought response plan shall be implemented for the basin upon the direction of the authority;
- (11) Develop comprehensive plans for the management of the Kentucky River within the basin, including a long-range water resource plan and a drought response plan. Each county within the basin shall develop a long-range water resource plan and submit it to the authority. The authority *after consultation with the Natural Resources and Environmental Protection Cabinet*, shall develop a unified long-range water resource plan for the basin. *The unified long-range water resource plan shall be implemented over short-range and long-range time periods. The short-range plan shall be for a period of six (6) years and the longrange plan shall be for a period of twenty (20) years.* The authority shall conduct a public hearing on the plan *prior to its adoption and amend the plan as appropriate based on the comments received. The Natural Resources and Environmental Protection Cabinet shall review the draft unified plan and provide comment during the public comment period concerning the consistency of the plan with the state requirements under KRS Chapters 224 and 151*, and submit its final unified plan for the basin to the Natural Resources and Environmental Protection Cabinet. ~~The cabinet shall act upon the plan within six (6) months and shall approve the plan, unless it objects for good reason shown.~~ A drought response plan for the basin shall be developed by the authority *and shall be coordinated with the Natural Resources and Environmental Protection Cabinet to assure consistency with KRS Chapters 224 and 151*, and this plan shall be implemented for the basin upon the direction of the authority;
- (12) Develop and promote a plan for the protection and use of groundwater within the basin. Administrative regulations may be promulgated implementing the plan, and these regulations shall not be less stringent than state and federal regulations protecting groundwater;

- (13) Develop recreational areas within the basin. These recreational areas may be operated and funded by the state Department of Parks, Kentucky State Nature Preserves Commission, or other governmental entity as specifically authorized or permitted within the biennial executive budget. There is hereby created the Kentucky River Park to be located as determined by the authority;
- (14) Utilize funds provided for recreational purposes within the biennial executive budget for major or minor maintenance if the authority certifies to the secretary of the Finance and Administration Cabinet that a significant need exists for the repairs and no other funds are available for the maintenance;
- (15) Coordinate the Kentucky River basin water resources activities among state agencies;
- (16) Report quarterly on all of its activities to the legislative Committee on Appropriations and Revenue;
- (17) Receive reports from state agencies on litigation concerning the Kentucky River, which agencies are hereby directed to report to the authority;
- (18) Credit to the authority any income derived from the interest earned on the investment of the water use fees collected, which shall be available for the authority's expenditure; and
- (19) Accomplish the watershed management mission of the authority, which is to fulfill the provisions of this section for the Kentucky River basin, the boundary of which shall be defined by a hydrologic map promulgated in an administrative regulation.

SECTION 5. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky River Authority shall undertake a continuing study of the water available within the Kentucky River and the water needs within the Kentucky River Basin. The study shall focus on necessary capital construction to maintain or increase water availability within the Kentucky River, including bringing existing facilities up to acceptable standards or replacing existing facilities where required.*
- (2) *The Kentucky River Authority shall on a biennial basis provide the General Assembly with an estimate of the cost of maintaining or increasing the water available within the Kentucky River in order to meet the water supply needs of the citizens within the Kentucky River Basin.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

- (1) *Beginning with the 2000-2002 biennium and each biennium thereafter, the authority shall submit to the General Assembly a six (6) year program of preconstruction and construction activities to maintain or increase water available within the Kentucky River. The program shall include a two (2) year construction component that shall be implemented as authorized by the General Assembly in the authority's biennial budget and a four (4) year preconstruction component that shall advise the General Assembly of the consistency of ongoing and long-term planning with the construction activities funded by the General Assembly.*
- (2) *The program shall be developed by considering, at a minimum, the following factors:*
 - (a) *The population to be served by the available water;*

- (b) *The social, economic, and environmental impact of program elements;*
 - (c) *The condition of existing facilities critical to water availability;*
 - (d) *The cost of maintaining, improving, replacing, or removing facilities; and*
 - (e) *The dependence of communities within the river basin on specific Kentucky River dam pools or other sources of water.*
- (3) *The program shall include a four (4) year planning document setting out preconstruction activities that include planning and design and an environmental analysis of projects to maintain or increase water available within the Kentucky River and geotechnical and stability evaluations of the Kentucky River locks and dams.*
 - (4) *The authority shall provide to the General Assembly a long-range planning document consisting of twenty (20) years for water supply projects being considered by the authority.*
 - (5) *The authority shall be responsible for the execution of each six (6) year program as approved and authorized in the budget by the General Assembly and shall report any anticipated deviations from the authorized construction funding or preconstruction program to the Interim Joint Committee on Appropriations and Revenue.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

By July 1 of each year preceding the convening of the General Assembly in regular session, the authority shall provide the projected six (6) year construction and preconstruction program to the Interim Joint Committee on Agriculture and Natural Resources, the Capital Planning Advisory Board, and the Interim Joint Committee on Appropriations and Revenue.

Section 8. KRS 151.723 is amended to read as follows:

- (1) The rate of the water use fees collected by the authority shall be set for each year of the biennium based upon a total amount of funds necessary to carry out only those functions, projects, and expenses authorized by the General Assembly in the authority's biennial budget.
- (2) At the time the authority submits its budget to the Governor's Office of Policy and Management, it shall certify to the General Assembly ~~and the secretary of the Revenue Cabinet~~ the total amount of water use reported for the preceding biennium by users subject to the water use fees. At least thirty (30) days prior to the effective date of the authority's budget, the *authority*~~secretary of the Revenue Cabinet~~ shall establish a rate for each water use fee based upon an amount of water use projected for each year of the biennium from the amount reported, calculated to generate the amount of funds necessary to carry out the functions, projects, and expenses which have been authorized by the General Assembly *to be funded by the fees*. The rate shall be an amount for each one thousand (1,000) gallons of water use and shall be effective for at least one (1) year.
- (3) The authority shall define by administrative regulation those uses of the Kentucky River or the waters of the Kentucky River basin subject to a water use fee. Water use fees shall not apply to facilities using water for agricultural purposes. The authority shall collect the fees on a quarterly basis and pay the collected fees into the State Treasury to the credit of a restricted fund for use by the authority.

SECTION 9. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

At the time a water utility requests a state agency to take action required to allow the transfer between water utilities of drinking water within or into the watershed of the Kentucky River basin, the water utility shall notify the authority of the request that has been made for state agency action. The authority shall review the request and comment on the requested transfer to the state agency within the time period for the review by the state agency.

Section 10. No later than September 30, 2000, the authority shall report to the Interim Joint Committee on Agriculture and Natural Resources, the Capital Planning Advisory Board, and the Interim Joint Committee on Appropriations and Revenue on implementation of those plan elements authorized during the 2000 Regular Session of the General Assembly.

Approved April 3, 2000