

CHAPTER 165**(HB 173)**

AN ACT relating to school facilities construction.

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

Section 1. KRS 157.615 is amended to read as follows:

As used in KRS 157.611 to 157.640, unless the context requires otherwise:

- (1) "Available local revenue" means the sum of the school building fund account balance; the bonding potential of the capital outlay **and building funds** ~~fund~~; **and** the capital outlay fund account balance **on June 30 of odd-numbered years**~~; and the general fund balance minus ten percent (10%) of the annual general fund budget~~. These accounts shall be as defined in the manual for Kentucky school financial accounting systems;
- (2) "Board of education" means the governing body of a county school district or an independent school district;
- (3) "Bonds" or "bonds of the commission" means bonds issued by the commission, or issued by a city,~~or~~ county, **or other agency or instrumentality of the Board of Education**, in accordance with KRS Chapter 162, payable as to principal and interest from rentals received from a board of education or from the department pursuant to a lease or from contributions from the commission, and constitute municipal bonds exempt from taxation under the Constitution of the Commonwealth;
- (4) "Department" means the State Department of Education;
- (5) "District technology plan" means the plan developed by the local district and the Department of Education and approved by the Kentucky Board of Education upon the recommendation of the Council for Education Technology;
- (6) "Equivalent tax rate" means the rate which results when the income from all taxes levied by the district for school purposes is divided by the total assessed value of property plus the assessment for motor vehicles certified by the Revenue Cabinet as provided by KRS 160.470~~. The amount of income from any voted building tax shall be included in computing the equivalent tax rate~~;
- (7) "Kentucky Education Technology System" means the statewide system set forth in the technology master plan issued by the Kentucky Board of Education with the recommendation of the Council for Education Technology and approved by the Legislative Research Commission;
- (8) "Lease" or "lease instrument" means a written instrument for the leasing of one (1) or more school projects executed by the commission as lessor and a board of education as lessee, or executed by the commission as lessor and the department as lessee, as the case may be;
- (9) "Lease/purchase agreement" means a lease between the school district or the department and a vendor that includes an option to purchase the technology equipment or software at the end of the lease period;
- (10) "Percentage discount" means the degree to which the commission will participate in meeting the bond and interest redemption schedule required to amortize bonds issued by the commission on behalf of a local school district;

- (11) "Project" means a defined item of need to construct new facilities or to provide major renovation of existing facilities which is identified on the priority schedule of the approved school facilities plan;
- (12) "School facilities plan" means the plan developed pursuant to the survey specified by KRS 157.420 and by administrative regulations of the Kentucky Board of Education;
- (13) "Technology master plan" means the long-range plan for the implementation of the Kentucky Education Technology System as developed by the Council for Education Technology and approved by the Kentucky Board of Education and the Legislative Research Commission;
- (14) "Unmet facilities need" means the total cost of new construction and major renovation needs as shown by the approved school facilities plan less any available local revenue;
- (15) "Unmet technology need" means the total cost of technology need as shown by the approved technology plan of the local district; and
- (16) "Eligible district" means any local school district having an unmet facilities need, as defined in this section, in excess of one hundred thousand dollars (\$100,000) or a district qualifying for education technology funding.

Section 2. KRS 157.620 is amended to read as follows:

- (1) To participate in the school construction funding program, the district must have unmet needs as defined by KRS 157.615 and must meet the following eligibility criteria:
 - (a) Commit at least an equivalent tax rate of five cents (\$0.05) to debt service, new facilities, or major renovations of existing school facilities as defined by KRS 157.440. A district that levies the five cents (\$0.05) and has not accepted an official offer of assistance from the School Facilities Construction Commission, made pursuant to KRS 157.611, may use receipts from the levy for other purposes as determined by the district board of education.
 - (b) On *July 1 of odd-numbered years* ~~{July 29, 1985, and on June 30 of each year thereafter}~~, the district board of education shall *restrict* ~~{transfer}~~ all available local revenue, as defined by KRS 157.615, ~~{to a restricted account}~~ for school building construction, to be utilized in accordance with the priorities determined by the *most current* ~~{approved}~~ school facilities plan *approved by the Kentucky Board of Education*.
- (2) Interest earned on ~~{funds deposited in the}~~ restricted *funds* ~~{accounts}~~ required by this section shall ~~{be deposited in the restricted account and shall}~~ become a part of the restricted funds.
- (3) Funds restricted by the requirements of this section may be used by the district for projects or a portion thereof as listed in priority order on the approved school facilities plan prior to receiving state funds. Any local school district which is not an eligible district may be permitted, upon written application to the Department of Education, to transfer funds restricted by KRS 157.611 to 157.640 for other school purposes.
- (4) Not later than October 15 of the year immediately preceding *an even-numbered year* ~~{the}~~ regular session of the General Assembly, the Kentucky Board of Education shall submit a statement to the School Facilities Construction Commission certifying the following in each district:

- (a) The amount of school facility construction needs in each district;
 - (b) The amount of available local revenue in each district; and
 - (c) That the district has or has not met the eligibility criteria established by subsection (1) of this section.
- (5) Construction needs shall be those needs specified in the school facilities plan approved by the Kentucky Board of Education as of June 30 of the year preceding *an even-numbered year regular session of the General Assembly*~~[the biennium in which funding is approved]~~.~~[All school facilities plans not approved by the State Board for Elementary and Secondary Education since January 1, 1981, shall be revised by December 31, 1985. The Kentucky Board of Education shall conduct public hearings on all amendments to approved plans.~~
- ~~(6) If a local board of education determines that for any reason the district's approved facility plan is grossly inconsistent with the administrative regulations governing the development of the plan, the local board may certify, by official action, the reason for such inconsistency and may request that the Department of Education resurvey the building needs of the district. After review of the data, the chief state school officer may require a resurvey and the approval of a new facility plan certified prior to an official offer from the School Facilities Construction Commission, and on or before January 15 of any subsequent year. If the chief state school officer elects to recommend the new facility plan to the Kentucky Board of Education, the board shall notify the School Facilities Construction Commission of any change required in the statement of need for the district.]~~

Section 3. KRS 157.622 is amended to read as follows:

The School Facilities Construction Commission shall be governed by the following procedures in providing assistance to school districts for construction purposes:

- (1) Upon receipt of the certified statements from the Kentucky Board of Education as required by KRS 157.620, the commission shall compute the unmet needs of all eligible districts as defined by KRS 157.615;
 - (2) Assistance to each eligible district shall be determined by computing the ratio of the available state funding to total unmet need statewide. Based on the computed ratio, an equivalent percentage of each eligible district's unmet need will be funded;
 - (3) Each eligible district which has otherwise complied with the provisions of KRS 157.615 and 157.620 shall be offered sufficient funding to finance construction of the portion of its unmet need computed by applying the ratio determined in subsection (2) of this section to the total unmet need of the district. The funds shall be applied to the projects listed on the *most current* facility plan *approved by the Kentucky Board of Education*~~[certified to the School Facilities Construction Commission prior to the appropriation of funds]~~, and the funds shall be applied to projects in the priority order listed on the plan. Exceptions to the priority order of projects may be approved by the School Facilities Construction Commission when it is documented by the local board of education and approved by the Kentucky Board of Education upon the recommendation of the chief state school officer that the school district's priority order of needs has changed. The exceptions shall not alter the amount of the offer of assistance;
- ~~[(4) Any school district which met all criteria for first round funding with the School Facilities Construction Commission and which received an offer of assistance from the School~~

~~Facilities Construction Commission, but which had sold bonds in the sixty (60) days prior to receiving the offer under the assumption that an offer would be made, shall be eligible to receive the assistance for which the district qualified;]~~

- ~~(4)~~~~(5)~~ The commission shall promulgate administrative regulations whereby an eligible district which fails in any budget period to receive an allocation of state funds that is sufficient to fund the district's priority project or portions thereof may accumulate credit, subject to the availability of funds, for its unused state allocation for a period not to exceed four (4) years. Accumulation and retention of credit is contingent upon the transfer of available local revenue to the restricted construction account by June 30 of each year;
- ~~(5)~~~~(6)~~ Except as provided in subsection (7) of this section, all unused state allocations accumulated according to the provisions of subsection (3) of this section shall be reallocated by the commission. The reallocation shall follow the process and intent as set forth in this section with eligible districts being those districts which contribute unused state allocations to the reallocation account. Any district which has an unused state allocation after funding its first priority project in a biennium is not eligible for consideration for additional funds from the reallocation account. Any funding received and utilized from the reallocation account by a district shall equally reduce the credit as set forth in this section; and
- ~~(6)~~~~(7)~~ Refinancing savings that have occurred since July 1, 1997, and subsequent savings to the commission generated over the life of a bond by the local district's refinancing of the bond shall be dedicated to the district's account by the commission. Any funds accumulated in this account shall be used toward the district's next priority, but shall not be deducted from the district's share of commission funds under subsection (3) of this section.

Approved March 30, 2001