

CHAPTER 342**(HB 174)**

AN ACT relating to environmental protection.

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

Section 1. KRS 224.43-010 is amended to read as follows:

- (1) It is hereby declared to be the policy of this Commonwealth and the purpose of this chapter to provide for the management of solid waste, including reduction, collection, transportation, and disposal in a manner that will protect the public health and welfare, prevent the spread of disease and creation of nuisances, conserve our natural resources, and enhance the beauty and quality of our environment.
- (2) It is the policy of the Commonwealth to limit and reduce the amount of solid waste disposed in municipal solid waste disposal facilities in the Commonwealth ***through reduction in the amount of waste generated, reuse of solid waste, waste recycling or yard waste composting, and resource recovery***, and to encourage a regional approach to solid waste management.
- (3) ***It is the policy of the Commonwealth that municipal solid waste disposal facilities that ceased accepting waste before July 12, 1992, undergo proper closure, characterization, and corrective action.***
- (4) It is the policy of the Commonwealth that a comprehensive and integrated waste management system to handle solid waste is to be fostered. State policies and funding assistance shall reflect a preference for ***projects and practices consistent with the policies and goals established by this section and the following***~~[solid waste management practices according to the following priority]:~~
 - (a) ***Education of the citizens of the Commonwealth regarding proper disposal of waste;***
 - (b) ***Collection and proper disposal of all of solid waste for proper management;***
 - (c) ***Elimination of illegal dumps throughout the Commonwealth; and***
 - (d) ***Abatement of litter on state and county rights-of-way***~~[Reduction in the amount of waste generated;~~
 - ~~(b) Reuse of solid waste;~~
 - ~~(c) Waste recycling or yard waste composting;~~
 - ~~(d) Resource recovery through mixed municipal solid waste composting or incineration;~~
 - ~~(e) Land disposal in publicly owned landfills or incineration of solid waste without energy recovery; and~~
 - ~~(f) Land disposal in landfills other than publicly owned landfills].~~
- ~~(5) [(4)]~~ It is ***the policy of the Commonwealth that existing illegal open dumps be eliminated and that new open dumps be prevented***~~[further the goal of this Commonwealth that the amount by weight of municipal solid waste disposed at municipal solid waste disposal facilities shall be reduced by a minimum of twenty-five percent (25%) by July 1, 1997, as compared to fiscal year 1993 on a statewide per capita basis. However, credit shall be given for reductions achieved prior to 1993 when accurate measurements are available. The~~

~~reduction goal shall not apply to special wastes as designated by KRS 224.50-760 or industrial solid waste].~~

- (6) *The General Assembly finds that counties and waste management districts, when enabled by complete and accurate information relating to the municipal solid waste collection and management practices within the solid waste management area, are in the best position to make plans for municipal solid waste collection services for its citizens. The General Assembly also finds that assistance from the cabinet, combined with state financial incentives, can aid counties and waste management districts with implementing solid waste management plans.*
- (7) *The General Assembly finds that the goal of reducing the amount of solid waste disposed of in municipal solid waste disposal facilities cannot be achieved without first identifying the amount of municipal solid waste generated statewide per capita, including the waste now disposed of in open dumps, and providing incentives for the elimination of existing open dumps and the prevention of new open dumps.*

SECTION 2. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section:*
- (a) *"Environmental remediation fee" means a one dollar and seventy-five cents (\$1.75) fee paid per ton of waste by generators of waste and collected at transfer stations and waste disposal facilities that is in addition to all other applicable fees and taxes assessed prior to January 1, 2003;*
- (b) *"Transfer station" means a facility permitted by the cabinet where waste is transferred from one (1) vehicle to another for transportation to a municipal solid waste disposal facility; and*
- (c) *"Public road" means any city, county, state, federal, or limited access street, highway, or turnpike, including bridges and bridge approaches.*
- (2) *The environmental remediation fee levied under this section is in addition to all other applicable fees and taxes assessed prior to January 1, 2003. Notwithstanding any law, franchise, or contract to the contrary, the owner or operator of a transfer station or municipal solid waste disposal facility, or the person who collects waste and delivers such waste to a transfer station or municipal solid waste disposal facility may pass through and obtain from the generator any environmental remediation fee required under this section.*
- (3) *Beginning January 1, 2003, an environmental remediation fee of one dollar and seventy-five cents (\$1.75) per ton of waste shall be paid by generators of waste to be disposed of at a municipal solid waste disposal facility and collected by waste transfer stations or municipal solid waste disposal facilities in the Commonwealth. No environmental remediation fee shall be collected at a municipal solid waste disposal facility on waste for which the fee has been paid at a transfer station to the disposal facility. The cabinet shall, by administrative regulation, adopt a conversion formula to allow assessment of the fee by transfer stations that do not have scales. For loads of waste weighing less than one (1) ton, the environmental remediation fee shall be one dollar and seventy-five cents (\$1.75).*
- (4) *Not later than thirty (30) days following the last day of each calendar quarter, every owner or operator of a transfer station or municipal solid waste disposal facility shall remit to the cabinet the environmental remediation fee collected during the prior quarter,*

with a report stating the number of tons of waste for which the environmental remediation fee was collected.

SECTION 3. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) *A trust fund known as the Kentucky Pride Fund is hereby established in the State Treasury to receive money collected from environmental remediation fees established in Section 2 of this Act. The fund shall be used to accomplish the purposes established in this section. Any money accruing to the fund in any fiscal year shall not lapse but shall be carried forward to the next fiscal year. The fund may also receive state appropriations, gifts, grants, and federal funds. All interest earned on money in the fund shall be credited to the fund.*
- (2) *The cabinet shall administer the Kentucky Pride Fund as provided by this section and any administrative regulations promulgated pursuant thereto. Money from the fund received by the cabinet shall be distributed as follows:*
 - (a) *Five million dollars (\$5,000,000) of the money deposited into the fund each year shall be retained by the cabinet, subject to the following conditions:*
 1. *The cabinet may use up to two and one-half million dollars (\$2,500,000) of the money deposited into the fund as necessary for direct costs associated with site identification, characterization, and corrective action assessments of solid waste disposal sites and facilities that have ceased accepting waste before July 1, 1992, including former permitted municipal solid waste disposal facilities or abandoned solid waste disposal sites or facilities. The cabinet shall prioritize the sites and facilities based on risks to human health, safety, and the environment, and develop an implementation plan for closure and remediation of those sites and facilities. The cabinet shall present the implementation plan to the Interim Joint Committee on Appropriations and Revenue no later than July 1, 2003. Funds may be utilized to begin design and implementation of proper closure and corrective action for those sites and facilities with unabated pending violations.*
 2. *The cabinet shall suspend until July 2006 enforcement activity regarding landfill closure and remediation obligations against formerly permitted municipal solid waste disposal facilities owned by a city or county that ceased accepting waste prior to July 1, 1992, except as necessary to abate an environmental emergency.*
 3. *The cabinet shall develop for presentation to the Interim Joint Committee on Appropriations and Revenue no later than December 31, 2003, a plan for state assumption of responsibility for closure and remedial obligations of formerly permitted city and county municipal solid waste landfills that ceased accepting waste prior to July 1, 1992, including recommendations on funding such obligations.*
 4. *The cabinet shall develop for presentation to the Interim Joint Committee on Appropriations and Revenue no later than December 31, 2004, a plan for closure and remediation of all identified abandoned solid waste sites and facilities, including recommendations on funding such obligations.*

5. *Two and one-half million dollars (\$2,500,000) per year shall be used to pay debt service on bonds to be sold by the Kentucky Infrastructure Authority in the amount of at least twenty-five million dollars (\$25,000,000), with all proceeds from the issuance and sale of these bonds to be deposited in the Kentucky Pride Fund established in Section 3 of this Act and utilized for undertaking closure and corrective action at formerly permitted solid waste disposal facilities or abandoned solid waste sites or facilities that ceased accepting waste prior to July 1, 1992, which pose the most significant environmental or human health risk. Moneys not appropriated for the identification and characterization of orphaned or abandoned landfills, or debt service, may be used for the elimination of illegal open dumps, direct costs associated with the closure of orphaned landfills, or additional debt service.*
 - (b) *The interest on all moneys deposited into the fund including unused debt services shall be distributed annually in an amount not to exceed one million dollars (\$1,000,000) to the Kentucky Environmental Education Council for implementation of the environmental education center component of the Environmental Education Master Plan;*
 - (c) *The remaining balance of the funds from the environmental remediation fee established in Section 2 of this Act shall be utilized by the cabinet for the elimination of illegal open dumps in the counties of the Commonwealth, subject to the following provisions:*
 1. *The cabinet shall prioritize expenditures from this fund among those counties with approved solid waste management plans in order to address those illegal open dumps posing the most significant public health and environmental risks;*
 2. *During the first funding year, the cabinet shall use the balance of funds from the environmental remediation fee to reimburse counties semiannually for seventy-five percent (75%) of the costs relating to the cleanup of illegal open dumps it has identified as presenting the most significant public health and environmental risks;*
 3. *After the first funding year, the cabinet shall reimburse counties semiannually for seventy-five percent (75%) of the direct expense of eliminating illegal open dumps providing they:*
 - a. *Establish an effective universal municipal solid waste collection service that is available to all county residences and businesses;*
 - b. *Employ a solid waste coordinator with enforcement powers;*
 - c. *Remain in compliance with an approved solid waste management plan under this chapter;*
 - d. *Enter into agreement with the cabinet to eliminate all identified illegal open dumps containing solid waste;*
 - e. *Agree to use all legal methods at their disposal to collect delinquent solid waste collection fees; and*

- f. *Establish a committee to be designated as the clean county committee, composed of representatives from business, schools, agriculture, homemakers, and other concerned citizens, to increase awareness and develop education and enforcement strategies to keep the county free of litter and illegal open dumps.*
4. *Counties that meet the requirements set out above in subparagraph 3. of this paragraph shall be provided the following incentives and rewards by the cabinet:*
 - a. *Extra points when applying for Land and Water Conservation Fund grants, National Recreation Trails Funds grants, and funding from the state-funded Community Rivers and Streams Program; and*
 - b. *Priority consideration for funds from the Division of Conservation State Cost Share Program for dumps on farmland and the Waste Tire Trust Fund for tire dumps; and*
5. *The cabinet may waive the matching requirement of subsection (3) of this section for illegal dump cleanup within a county during any year in which the county demonstrates that it has enacted and enforced an ordinance mandating collection by all households and businesses in a universal collection program.*
- (d) *Two and one-half million dollars (\$2,500,000) shall be transferred in each of the fiscal years 2002-03 and 2003-04 and annually thereafter from the Road Fund established in KRS 48.010(13)(g) and two and one-half million dollars (\$2,500,000) shall be transferred in each of the fiscal years 2002-03 and 2003-04 and annually thereafter from the Highway Construction Contingency Fund to the Kentucky Pride Fund established in Section 3 of this Act, to be reserved and distributed semiannually for anti-litter control programs with distributions to be made as follows:*
 1. *Thirty-three and one-third percent (33-1/3%) of the money shall be distributed semiannually based on each county's miles of public roads as a percentage of the total miles of public roads in the Commonwealth at the time of distribution;*
 2. *Thirty-three and one-third percent (33-1/3%) of the money shall be distributed semiannually based on the county's rural population as a percentage of the total rural population of the Commonwealth at the time of distribution. "Rural population" means the population residing outside a city, town, or urban area with a population of two thousand five hundred (2,500) persons or more;*
 3. *Thirty-three and one-third percent (33-1/3%) of the money shall be distributed semiannually based on the county's population as a percentage of the total population of the Commonwealth at the time of distribution;*
 4. *Of the moneys apportioned to counties on the basis of miles of public roads and population as provided for in subparagraphs 1. and 3. of this paragraph, the cabinet shall provide to the participating incorporated cities within the jurisdiction of each respective county which, by ordinance or other means, provides municipal solid waste collection service, an amount of funds equal to the ratio of that city's total miles of public roads in the county and the ratio of*

that city's population to the population of the county, to be used for the purpose of litter cleanup on public roads within city boundaries; and

5. *Moneys received by counties and cities pursuant to this subsection shall be used to meet obligations with respect to the litter cleanup of public roads required by the provisions of Section 6 of this Act.*
- (3) *Prior to providing the financial assistance provided under paragraphs (c) and (d) of subsection (2) of this section, the cabinet shall require a county to provide a match of twenty-five percent (25%) of the total amount of the financial assistance to be provided by the cabinet. The match provided by the county may be in-kind.*
- (4) *The cabinet shall be reimbursed for reasonable costs related to the implementation of the provisions of this section, not to exceed seven hundred fifty thousand dollars (\$750,000) annually. The cabinet shall report to the General Assembly at its regular session in 2003 regarding costs and expenditures relating to the provisions of this section.*

Section 4. KRS 224.43-310 is amended to read as follows:

- (1) The Natural Resources and Environmental Protection Cabinet of the Commonwealth of Kentucky is designated as the official planning and management agency of the Commonwealth of Kentucky in the field of solid waste. The cabinet shall have primary responsibility for coordinating the solid waste planning and management activities of waste management districts, counties, cities, area development districts, and any combination thereof and for the approval of solid waste management facilities. In doing so it shall be the goal of the cabinet to reduce the amount of solid waste disposed in municipal solid waste disposal facilities within the Commonwealth and to encourage regional management of solid waste.
- (2) The cabinet shall have the primary responsibility to develop, review, report on, and triennially update a statewide solid waste reduction and management plan. A draft plan shall be prepared and made available for public inspection by December 1, 1991; a proposed final plan shall be submitted to the General Assembly by February 1, 1992; and a final plan shall be submitted to the General Assembly by March 1, 1992. The plan shall be designed to address the following:
- (a) Coordination of area plans and provision of support for area planning efforts;
- (b) *Elimination of existing open dumps and prevention of new open dumps;*
- (c) *Proper closure, characterization, and corrective action for municipal solid waste disposal facilities that ceased accepting waste before July 1, 1992;*
- (d) Reductions in solid waste disposed in municipal solid waste disposal facilities within the Commonwealth by actively promoting reuse and reduction consistent with the *policies and* goals established by KRS 224.43-010;
- (e)~~(e)~~ Adequate capacity exists for recycling or disposal of solid waste generated within the Commonwealth for ~~a~~ five (5), ten (10), and twenty (20) year *planning periods*~~period~~;
- (f)~~(d)~~ *Maintenance of* disposal capacity for solid waste generated in the Commonwealth ~~is maintained~~ if the cabinet acts to close a solid waste management facility;

- (g)~~(e)~~ **Encouragement of** regional alternatives for waste reduction and management~~are encouraged~~ in the planning process;
 - (h)~~(f)~~ Priority in grants and loans~~is afforded~~ for **projects and practices consistent with the policies and goals established by Section 1 of this Act**~~regional waste reduction and management alternatives~~;
 - (i)~~(g)~~ **Minimum standards and procedures for** solid waste management plans as~~meet minimum standards and procedures~~ established by the cabinet in administrative regulations;
 - (j)~~(h)~~ A description of the status of solid waste reduction and management efforts in Kentucky;
 - (k)~~(i)~~ Identification of state actions and responsibilities necessary to implement this chapter; and
 - (l)~~(j)~~ Identification of problems impeding the attainment of the policies and goals of this chapter.
- (3) The **statewide solid waste reduction and management** plan shall not establish maximum disposal capacity limitations for the Commonwealth.
- (4) The cabinet, beginning July 1, 1992, shall report annually to the Governor and to the General Assembly on the status of solid waste management in the Commonwealth. The report filed July 1, 1992, shall present the current status of solid waste planning and management in the Commonwealth. Subsequent annual reports shall include, but not be limited to:
- (a) The status of solid waste planning and management;
 - (b) The number and types of recycling and solid waste management facilities in the Commonwealth;
 - (c) **The status of actions taken to:**
 - 1. **Eliminate existing open dumps and prevent new open dumps; and**
 - 2. **Undertake proper closure, characterization, and corrective action for municipal solid waste disposal facilities that ceased accepting waste before July 1, 1992;**
 - (d) The remaining permitted capacity of each permitted solid waste management facility;
 - (e)~~(d)~~ The number and types of solid waste grants or loans made to cities, counties, waste management districts, and area development districts;
 - (f)~~(e)~~ A compilation and analysis of solid waste reduction and management data provided to the cabinet;
 - (g)~~(f)~~ A statement of progress achieved in meeting the **policies and** goals established by KRS 224.43-010;
 - (h)~~(g)~~ A statement of progress achieved in solid waste management education;
 - (i)~~(h)~~ A statement of progress achieved in establishing regional solid waste management approaches;
 - (j)~~(i)~~ Any revisions in the statewide solid waste reduction and management plan; and

~~(k)(j)~~ Recommendations for improving the reduction and management of solid waste in the Commonwealth.

(5) ***On March 1 of each year***~~[Beginning January 1, 1993]~~, each governing body shall report annually to the cabinet on the status of solid waste management in its area. The annual report shall include, but not be limited to:

- (a) The amount of in-area and out-of-area municipal solid waste disposed in municipal solid waste disposal facilities in the area;
- (b) ~~The progress on the reduction in municipal solid waste disposal in the area since the previous reporting period and~~ total cumulative progress made toward meeting the ***policies and goals established by***~~[state reduction goal described in]~~ KRS 224.43-010;
- (c) The remaining permitted capacity of disposal facilities;
- (d) Recycling and composting activities in existence;
- (e) Public information and education activities during the reporting period ***including public campaigns urging participation in a municipal solid waste collection system and public campaigns promoting anti-litter and anti-dumping behavior with an accounting by the governing body of funds spent, labor expended, volunteer time and money expended, and an estimation of the campaign's effect;***
- (f) ***The number of households within the area served by the governing body and the methods of public or private municipal solid waste collection available to them, the cost to the households using the collection system, the percentage of households using each method of municipal solid waste collection available to them, the cost to the governing body of providing a municipal solid waste collection system, how the cost is paid for by the governing body, and the percentage of the cost that is recovered through service fees, including a complete accounting for collected fees, uncollected fees, and success in recovering uncollected fees;***
- (g) ***Progress made since the last report on cleaning up illegal open dumps, including the number of open dumps eliminated since the last report or the last solid waste management plan revision, the total and average cost per open dump elimination, and identification of new open dumps or cleaned up open dumps that have been used again for illegal dumping;***
- (h) Fees for solid waste management assessed and collected;~~[and]~~
- (i) ***Costs of any projects undertaken pursuant to the solid waste management plan; and***
- ~~(j)(g)~~ Any other pertinent information as may be required by the cabinet.

~~(6) There is created a Solid Waste Reduction and Management Plan Advisory Committee to advise and review a draft and final solid waste reduction and management plan and any amendments of the plan prepared by the cabinet under subsection (2) of this section.~~

~~(7) The Solid Waste Reduction and Management Plan Advisory Committee shall consist of the secretary of the Natural Resources and Environmental Protection Cabinet or his designee who shall serve as chairman, one (1) member of the Senate to be appointed by the President, one (1) member of the House of Representatives to be appointed by the Speaker of the House of Representatives, and nine (9) members to be appointed by the Governor as follows:~~

- ~~(a) Two (2) members shall represent the interest of counties;~~
 - ~~(b) Two (2) members shall represent the interests of cities, one (1) from a first or second class city or urban county government and one (1) from either a third, fourth, fifth, or sixth class city;~~
 - ~~(c) One (1) member shall represent the interests of industrial generators of solid wastes;~~
 - ~~(d) One (1) member shall represent the private recycling industry;~~
 - ~~(e) One (1) member shall represent the private solid waste disposal industry;~~
 - ~~(f) One (1) member shall be from a statewide environmental advocacy organization; and~~
 - ~~(g) One (1) member shall represent the public at large.~~
- ~~(8) Vacancies on the committee shall be filled in the same manner as the original appointment occurred.~~
- ~~(9) Nonlegislative members of the committee shall serve without pay and shall receive their reasonable and necessary expenses in connection with the performance of their duties.~~
- ~~(10) The committee shall meet at the call of the chairman. The committee may hold public hearings or make site visits as necessary. A quorum of its members is necessary to take action on any matter. A majority vote of the total members present must approve any action.~~
- ~~(11) Following adoption of the statewide solid waste reduction and management plan, the committee shall remain in service to provide guidance and advice to the cabinet in the implementation of the plan. The committee shall no longer remain in service after the 1994 General Assembly unless the 1994 General Assembly takes action to continue the committee.]~~

Section 5. KRS 224.43-315 is amended to read as follows:

- (1) Each county shall provide a universal collection program by ***October 1, 2003***~~[July 1, 1994]~~, for all municipal solid waste generated within the county. Collection programs may include ***one (1) or more of the following options***:
- (a) Door-to-door household collection: Collection service may be provided by the county, by contract, or franchise;~~[- When door-to-door collection is provided by contract, or franchise, or under local permit, the county shall require reports from the entity providing collection to document the rate of collection.]~~
 - (b) Direct haul to staffed convenience centers or staffed transfer facilities within the county: The county may allow residents to haul their waste directly to cabinet-approved staffed convenience centers or staffed transfer facilities within the county. The number of convenience centers and transfer facilities shall be adequate to assure reasonable convenience; ***and***~~[- When the collection program is provided by another entity through contract or franchise, the county shall require reports from the entity providing collection to document the rate of collection; or]~~
 - (c) Other alternatives proposed by counties: Counties may propose other alternatives ***including subscription service and unstaffed convenience centers***, and the cabinet shall approve same as long as the county can demonstrate that all of its citizens are being given access to the solid waste collection system which is proposed.

- (2) ***Beginning October 1, 2003, all persons providing collection service, including collection for the purpose of recycling, shall register annually with the counties in which they provide the service.***
- (3) ***Beginning March 1, 2004, all persons providing collection service, including collection for the purpose of recycling, shall report annually to the counties in which they provide the service. The reports shall include:***
 - (a) ***The number of households, businesses, and industries from which municipal solid waste was being collected on October 1 of the previous year;***
 - (b) ***The amount of municipal solid waste collected for disposal during the previous calendar year;***
 - (c) ***The amount of municipal solid waste collected for recycling, by volume, weight, or number of items during the previous calendar year; and***
 - (d) ***The types of items collected for recycling.***
- (4) The county shall submit an annual report to the cabinet and to any waste management district of which it is a member detailing its solid waste collection activities in accordance with ***this section and any*** requirements established by the cabinet by administrative regulation.
- (5)~~(3)~~ The county may enter into agreements with any person for the performance of the responsibilities described in this section, including cities within its geographic boundaries, but the county shall be responsible for providing the universal collection program described in this section, except any city of the first or second class having sole responsibility for developing its portion of the solid waste plan shall be responsible for providing the universal collection within its jurisdiction, and except any city contracting for the collection of its solid waste on February 26, 1991, may continue to contract for the collection of its solid waste if the contract provides for disposal in accordance with the area solid waste management plan.
- (6)~~(4)~~ If a county or city fails to comply with the provisions of this section, the Commonwealth shall not endorse projects that generate solid waste under the Kentucky intergovernmental review process for the county or city.
- (7)~~(5)~~ A commercial or industrial entity which transports or contracts for the transport of the municipal solid waste it generates or which operates an industrial solid waste management facility for its exclusive use may be excluded from participation in the universal collection program, ***if the commercial or industrial entity demonstrates to the county that the solid waste generated is disposed of in accordance with applicable statutes and administrative regulations.***

Section 6. KRS 224.43-345 is amended to read as follows:

- (1) Each area solid waste management plan shall be prepared in accordance with ***any*** administrative regulations ~~of~~~~to be adopted by~~ the cabinet and shall be required to include the following:
 - (a) Identification of the area that will be included in the plan;
 - (b) A demographic study of the planning area of current and projected populations five (5), ten (10) and twenty (20) years in the future. A projection of the amount and source

of solid waste generated, *collected*, and requiring disposal at municipal solid waste disposal facilities for each of these time periods shall be provided;

- (c) An inventory and description of all existing solid waste management facilities and activities. The description shall include their identity, location, life expectancies, ownership, cost to the users, and level of compliance with state and federal laws. The description is not required to include any solid waste management facility which is operated exclusively by a solid waste generator on property owned by the solid waste generator for the purpose of accepting solid waste from the solid waste generator or waste generated at another facility owned and operated by the generator or wholly-owned subsidiary. After commencement of operation by a solid waste generator of a solid waste disposal facility which is permitted but not included in a solid waste management plan, an amendment to a solid waste management plan shall be required for any solid waste which is to be no longer disposed by the solid waste generator in its own solid waste disposal facility;
- (d) An estimate of the area's long-range needs for solid waste management and facilities for five (5), ten (10), and twenty (20) years into the future;
- (e) Identification and assessment of current and future solid waste management problems faced by the area. List any deficiencies with existing solid waste management facilities in meeting current and future area needs, and identify opportunities for improvement;
- (f) Outline short-term, mid-term, and long-term goals and objectives of the solid waste management area. The goals and objectives shall be consistent with ~~the state~~ policies **and goals set out in Section 1 of this Act**;
- (g) Based on the problems, needs, goals, and objectives previously identified, identify alternative approaches to solid waste management and select the optimal alternatives. Solid waste management activities and facilities to be addressed include:
 1. Identification of those regulations and ordinances which provide for proper, safe, and sanitary management of solid waste;
 2. A description of proposed improvements to existing solid waste collection and transportation systems **necessary to achieve universal collection**;
 3. Establishment of a siting procedure and development program to assure the orderly location, development, and financing of new or expanded municipal solid waste management facilities. The plan shall demonstrate how all persons in the planning area will within the near future have reasonable opportunity to dispose of their waste in a manner that complies with state and federal laws;
 4. Identification of planned programs for the control and cleanup of litter and open dumps. The programs shall include: **identification of an approved** ~~a~~ schedule for the cleanup of ~~illegal~~ open **dumps in existence as of October 1, 2002** ~~dump sites which will result in the cleanup of those sites within one (1) year of cabinet approval of the plan~~; an annual survey of the **planning area** ~~county~~ to discover new **open dumps** ~~sites~~ which shall then be scheduled for cleanup within one (1) year **unless the cabinet approves a longer schedule**~~; and~~ measures to prevent the recurrence of dumping at sites which are cleaned up; **cleanup of litter along public roads three (3) times per year; and cleanup of litter along city streets two (2) times per year. In these public road cleanups and also open dump**

cleanups, nonviolent misdemeanor and Class D felon inmate laborers may be used. A county that does not receive in any year an allocation from the Kentucky Pride Fund sufficient to complete the number of road cleanups provided for in this section shall not be deemed out of compliance;

5. An assessment of opportunities to reduce the need for land disposal by banning grass clippings, leaves, and other yard wastes from municipal solid waste disposal facilities and the institution of composting operations for grass clippings, leaves, and other yard wastes;
 6. Establishment of a plan to reduce the need for land disposal through waste reduction and recycling, materials recovery, and energy recovery and the provision of opportunities for recycling that may include, but are not limited to, drop-off centers or door-to-door collection. Where recycling or material recovery is not deemed feasible, specific factual analysis shall be provided to support the conclusion; and
 7. A description of any proposed recycling, materials recovery, or energy recovery plan or facility;
- (h) A five (5) year schedule and description of activities to be undertaken to implement the proposed plan;
 - (i) A description of short-term costs of the plan including capital and operational costs ~~on a per ton and per capita basis~~ for each element of the plan, and the identification of the means of financing plan implementation;
 - (j) Designation of the governing body for implementation of the solid waste management plan or components of the plan. A description of its responsibilities and authority shall be provided;
 - (k) A description of proposed surveillance and enforcement procedures to assure that solid waste in the planning area is properly managed. Identification of modifications to local laws and regulations necessary to implement the area plan;
 - (l) Specific provisions to assure that adequate capacity for a ten (10) year period shall be available for municipal solid waste generated in the solid waste management area, and identification of any additional capacity authorized for disposal of out-of-area municipal solid waste;
 - (m) Contractual agreements for use of waste disposal capacity at any municipal solid waste disposal facility inside or outside the waste management area identified and relied upon in the plan;
 - (n) Provisions to assure achievement of ~~reductions in municipal solid waste requiring disposal, consistent with~~ the *policies and* goals of KRS 224.43-010;
 - (o) Establishment of a public information and participation process including the following components;
 1. Formation of an advisory committee comprised of local residents, and business and industry representatives;
 2. Preparation of a draft plan for public notice and comment;
 3. Convening of a public hearing upon request; and

4. Publication of a response to public comments.
- (2) ~~A[The] solid waste management plan *complying with subsection (1) of this section* shall consist of two (2) parts. The first part shall contain the information described in subsection (1)(a) through (1)(d) and (1)(l) of this section and shall be submitted to the cabinet by October 1, 2002, and updated every five (5) years thereafter~~^[1991]. ~~The second part shall contain the information described in subsection (1)(a) through (1)(o) of this section and shall be submitted to the cabinet by January 1, 1993. The cabinet shall approve or disapprove the first part of the plan within thirty (30) days of receipt, and the second part of the plan within one hundred twenty (120) days of receipt].~~ ***The cabinet shall make its determination approving or disapproving a plan within one hundred twenty (120) days of receipt. A plan on which the cabinet has not yet made a determination shall remain in effect until the determination is made.***

Section 7. KRS 30A.190 is amended to read as follows:

All fees, fines, forfeitures, and costs in any District Court or Circuit Court case shall be collected and accounted for by the Circuit Court clerk and paid into the State Treasury, except that sixty percent (60%) of any fines imposed for the violation of KRS Chapter 150 or KRS Chapter 235 shall when collected be paid into the fish and game fund, ***sixty percent (60%) of any fines imposed for the violation of Section 8, 9, or 10 of this Act shall when collected be paid to the county in which the violation occurred, and forty percent (40%) of any fines imposed for the violation of Section 8, 9, or 10 of this Act shall, when collected, be paid to the agency issuing the citation.***

Section 8. KRS 433.753 is amended to read as follows:

- (1) When any paper, waste material, litter or other refuse is thrown or dropped from a motor vehicle, the operator thereof shall be deemed prima facie to be guilty of criminal littering.
- (2) It shall be the duty of the Kentucky State Police, county sheriffs and police officers, ***solid waste coordinators appointed by a county or waste management district***, city police officers, and all other law enforcement and peace officers within their respective jurisdictions, to enforce the criminal littering laws ***and the provisions of KRS 224.40-100.***
- (3) Any city or county may offer and pay rewards for the giving of information leading to the arrest and conviction of any person, firm or corporation for commission of the offense of criminal littering.
- (4) ***Violators may prepay to the Circuit Court clerk if prepayment is so noted on the citation and if the littering offense is not combined with an offense that is not prepayable.***

Section 9. KRS 433.757 is amended to read as follows:

- (1) When any litter as defined in KRS 512.010 is thrown or dropped from a motorboat or vessel as defined in KRS 235.010, the operator thereof shall be deemed prima facie to have violated KRS 512.070.
- (2) It shall be the duty of officers of the Department of Fish and Wildlife Resources as provided in KRS 235.010 and KRS Chapter 150 and all other law enforcement and peace officers of the Commonwealth and its political subdivisions ***and solid waste coordinators*** to enforce the provisions of KRS 512.070.
- (3) Any city or county may offer and pay rewards for the giving of information leading to the arrest and conviction of any person, firm, or corporation for a violation of KRS 512.070.

- (4) *Violators may prepay to the Circuit Court clerk if prepayment is so noted on the citation and if the littering offense is not combined with an offense that is not prepayable.***

Section 10. KRS 512.070 is amended to read as follows:

- (1) A person is guilty of criminal littering when he:
 - (a) Drops or permits to drop on a highway any destructive or injurious material and does not immediately remove it; or
 - (b) Knowingly places or throws litter on any public or private property or in any public or private water without permission; or
 - (c) Negligently places or throws glass or other dangerous pointed or edged substances on or adjacent to water to which the public has access for swimming or wading or on or within fifty (50) feet of a public highway; or
 - (d) Discharges sewage, minerals, oil products or litter into any public waters or lakes within the state.
- (2) Criminal littering is a Class A misdemeanor.
- (3) *Violators may prepay to the Circuit Court clerk if prepayment is so noted on the citation and if the littering offense is not combined with an offense that is not prepayable.***

Section 11. KRS 109.0415 is amended to read as follows:

- (1) As to any county for which an initial county or area solid waste management plan was not approved by the cabinet as of March 15, 1992, a county solid waste management plan submitted to the cabinet shall not become effective if fifty-one (51) percent of the registered voters eligible to vote in the last Presidential election sign and file a petition with the county clerk and the cabinet requesting submission of the plan to voter approval. The petition shall be filed within one hundred fifty (150) days of the fiscal court vote approving the plan.
- (2) If the county clerk determines that the petition is in proper order, the clerk shall certify the petition to the fiscal court. The fiscal court shall direct that the question be placed before the voters at a special election held less than sixty (60) days from the certification of the petition. The fiscal court shall bear the costs of advertising and placing the question before the voters.
- (3) The county clerk shall advertise the question as provided in KRS Chapter 424 and shall instruct the voters to vote "yes" or "no" on acceptance of the solid waste management plan. The results of the vote shall be certified to the fiscal court of the county and the cabinet. The cabinet shall not approve a county solid waste management plan if at least sixty (60) percent of those voting vote "no."
- (4) The provisions of this section shall not apply to any subsequent plan submitted by any county.

~~{(5) For the purposes of subsection (1) of this section, "initial" means the first part of the solid waste management plan described in KRS 224.43-345(2). For the purposes of subsection (4) of this section, "subsequent" means the second part of the plan described in KRS 224.43-345(2), or any amendments to the first part of the plan.}~~

Section 12. KRS 431.100 is amended to read as follows:

- (1) Except as provided in this section, all fines and forfeitures imposed by law or ordinance shall inure to and vest in the Commonwealth.
- (2) Fines and forfeitures imposed by law for violation of KRS 222.202 or ordinances relating to similar subject matter shall inure to and vest in the Commonwealth and shall be placed in a special fund in the State Treasury, which shall not lapse, and which, effective July 1, 1987, shall be used solely by the Cabinet for Health Services for the provision of treatment and counseling programs for alcoholics.
- (3) ***Sixty percent (60%) of*** fines for violation of KRS 512.070 shall, ***when collected,*** be transferred by the circuit clerk to the county treasurer for inclusion in the general fund of the county in which the offense occurs ***and forty percent (40%) shall be transferred to the agency that issued the citation.***
- (4) Court costs assessed pursuant to KRS 610.360 shall be placed in a trust and agency account in the State Treasury which shall be subject to appropriation by the General Assembly for the purposes of providing services and programs and for matching funds for grants for providing services and programs to juvenile public offenders.
- (5) The court shall not order a fine, forfeiture, service fee, cost, or any other money due the state or any other public officer paid to any person or organization other than one specifically required by statute nor shall a court suspend payment of a fine, forfeiture, service fee, cost, or any other money due the state if the defendant makes a payment to another person or organization.

Section 13. KRS 109.011 is amended to read as follows:

The General Assembly of the Commonwealth of Kentucky hereby finds, determines, and declares, as follows:

- (1) That an ever-increasing volume of solid waste both within and outside the Commonwealth is being generated as a result of increasing economic and commercial activity, continuing technological progress, and changes in methods of manufacturing, packaging, and marketing of consumer products, which results in additional solid wastes discarded by the users of these products;
- (2) That the continued economic and population growth of the Commonwealth has required increased industrial and commercial expansion and has made necessary the demolition of obsolete structures, the construction of new structures, the provision of highways and other avenues of transportation, and the construction and installation of public works which, together with pre-existing commercial, industrial, and agricultural operations, have resulted in the generation of further volumes of solid waste;
- (3) That the handling of solid wastes has been primarily carried out through the dumping of wastes on open soil and in landfills, which in some cases are inimical to the public health, safety, and welfare;
- (4) That by the enactment by the Congress of the United States of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580), as amended, the collection, sanitary disposal, and recovery of solid waste has been determined to be a matter of nationwide importance, recognizing that the management of solid waste should continue to be primarily the function of state, regional, and local agencies; and that pursuant to this federal law, the Commonwealth has taken and will take certain actions in respect to the planning and

implementation of solid waste plans within the guidelines of time requirements set forth in this federal law;

- (5) That as a result of the conditions described in the foregoing findings, problems of solid waste collection, management, and treatment, and resource recovery activities in connection therewith have become a matter of statewide concern necessitating action by the General Assembly to:
 - (a) Enable responsible planning and management agencies to be created to define solid waste management requirements, with all of the foregoing subject to regulation by the Natural Resources and Environmental Protection Cabinet;
 - (b) Assist those units of government primarily responsible for the management of solid waste and the acquisition, financing and operation of facilities to dispose of solid waste to fulfill their functions in a responsible and proper manner with primary emphasis on the regionalization of these functions; and
 - (c) Reduce the amount of solid waste generated and disposed in Kentucky;
- (6) That it is the intent of the General Assembly of the Commonwealth of Kentucky that the primary responsibility for adequate solid waste collection, management, treatment, disposal, and resource recovery shall rest with combinations of counties and waste management districts, subject to standards set by administrative regulations adopted by the Natural Resources and Environmental Protection Cabinet. In those cities currently operating solid waste management systems, the city and county may assume joint responsibility of preparing a solid waste management plan. If it is in the best public interest to do so and with the mutual agreement of both the county and city, a county may delegate responsibility for adequate collection, management, treatment, disposal, or materials recovery to a city. This delegation of responsibility is contingent upon the approval of a solid waste management plan by the cabinet. The purpose of delegating responsibilities shall be to effectuate the safe and sanitary management, use, and handling of solid waste, the protection of the health, welfare, and safety of the citizens and inhabitants of the Commonwealth, and for making the most efficient use of all resources for the benefit of the citizens and inhabitants of the Commonwealth;
- (7) That the General Assembly recognizes the generation of solid waste is inevitable, but much of it is unnecessary and should be discouraged. However, where solid waste does exist, it should be considered to the extent possible as a valuable resource, and be made use of wherever and whenever desirable and economically justifiable. Therefore, it shall be the policy of the Commonwealth to, above all things, encourage resource conservation and preservation of our natural resources before waste contributes in a needless fashion to the volumes of solid waste and litter produced by our society; but in dealing with existing solid waste, materials recovery from the solid waste stream is deemed to be the most environmentally sound alternative for handling waste;
- (8) It is not the intent of this chapter to prohibit or discourage the participation of the private sector in any aspect of solid waste management. Moreover, it is preferable for solid waste management functions to be performed by the private sector when it is in the best interests of the public and conforms with the policies and provisions in this chapter;
- (9) It is the intent of the General Assembly that counties and waste management districts cooperate to develop and implement the solid waste management plans mandated by KRS

Chapter 224 and the administrative regulations adopted by the cabinet with the goal of regionalizing the management of solid waste;

- (10) It is the intent of the General Assembly that waste requiring disposal in municipal solid waste disposal facilities be reduced and that solid waste be managed in an environmentally protective manner;
- (11) Notwithstanding any provision of KRS Chapters 82, 83, and 94, it is the intent of the General Assembly that this chapter and KRS 67.083(3)(o) provide counties with authority to develop a solid waste management system for solid waste generated within the geographical boundaries of the county, consistent with the provisions of this chapter and KRS Chapter 224. It is further the intent of the General Assembly that cities be authorized to finance, own, and operate solid waste management systems with the consent of the county or by contract with the county, except that in the event a county fails to submit a solid waste management plan pursuant to KRS Chapter 224 cities may proceed to develop solid waste management systems consistent with administrative regulations adopted by the cabinet pursuant to KRS Chapter 224. Cities that develop solid waste management facilities pursuant to this section shall have all the powers and restrictions set forth for counties in KRS 109.041, 109.056, *and* 109.059~~], and 109.062~~; and
- (12) It is the intent of the General Assembly that waste management districts which are formed and operated under this chapter shall comply with the standards set by administrative regulations adopted by the cabinet pursuant to KRS Chapter 224.

Section 14. KRS 109.041 is amended to read as follows:

- (1) In addition to all other powers enumerated in Chapter 67 and other sections of the Kentucky Revised Statutes, counties, acting by and through their fiscal courts, may own and hold the permit for, plan, initiate, acquire, construct, and maintain solid waste management facilities, enter into contracts or leases with private parties for the design, construction, or operation of a publicly-owned solid waste management facility, and adopt administrative regulations with respect thereto in accordance with this chapter. It is hereby determined and declared that in the implementation, acquisition, financing, and maintenance of solid waste management facilities, and in the enforcement of their use, counties will be performing state functions duly delegated to them for the public welfare. In such regard, the right of counties to condemn land necessary for the acquisition of solid waste management facilities pursuant to the Eminent Domain Act of Kentucky and to exercise the police power in respect thereto is confirmed. Any county may contract with third parties for the management by public or private means of solid waste within the county.
- (2) No solid waste management facility shall be acquired and constructed until the construction thereof has been approved in writing by the cabinet. Planning for a solid waste management facility shall be conducted in accordance with the policy set forth in KRS 109.011(7) and KRS Chapter 224.
- (3) ~~[Except as provided in KRS 109.062,]~~No county or waste management district shall prohibit or otherwise restrict materials recovery by:
 - (a) Any materials recovery operation in existence in the county or district on the effective date of the mandatory program;
 - (b) Any person supplying material to materials recovery operations on the effective date of the mandatory program;

- (c) Any new materials recovery operation that reclaims the same type of materials as materials recovery operations included in paragraph (a) of this subsection;
 - (d) Any new suppliers to materials recovery operations included in paragraphs (a) and (c) of this subsection;
 - (e) Any materials recovery operation for glass, plastic, or metal beverage containers, unless a commitment has been made by a local government or other political subdivision of the state, by ordinance or contract, to a solid waste project consistent with the provisions of this chapter, that is dependent upon the materials recovery of glass, plastic, or metal beverage containers to meet its financial obligations for said project, and such commitment has been made prior to the operation of any other such materials recovery facility in the county or district; or
 - (f) Any other materials recovery operation within the county or district not included in paragraphs (a) through (e) of this subsection or the supply of materials to such operation unless it is established that such operation would jeopardize the ability of a local government or other political subdivision of the state to meet financial obligations incurred in the maintenance, operation, or amortization of capital acquisition costs for a solid waste management facility.
- (4) Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, no county or waste management district shall regulate special wastes as defined in KRS 224.50-760, other than sludge from water and waste water treatment facilities as it pertains to landfarming, or solid waste from agricultural or mining operations.
 - (5) Any county undertaking the planning, implementation, construction, installation, acquisition, and financing of a solid waste management facility pursuant to this chapter shall have the authority set forth in Chapter 58 of the Kentucky Revised Statutes concerning the financing of such solid waste management facility, including the authority to promulgate, enforce, and collect reasonable rates, rentals, and charges for the use of such solid waste management facility.
 - (6) Bonds authorized to be issued by any county pursuant to the authority of this chapter for the financing of solid waste management facilities may be sold at either private or public sale as may in the sound discretion of the county be in the best interests of the county.
 - (7) Any county undertaking solid waste management pursuant to the provisions of this chapter may contract with any person for the provision of solid waste management services. A county may contract with any city to provide solid waste management services or may delegate the responsibility for solid waste management within incorporated areas to a city when the city agrees to assume such responsibility. In connection with solid waste management, any county may enter into contracts with any person for any term of years.
 - (8) Counties are authorized to charge a reasonable fee to transporters for the handling of their waste at a solid waste management facility approved by the cabinet.
 - (9) Counties are authorized to sell or market materials and energy recovered from solid waste and to enter into long-term contracts guaranteeing supply to insure markets for the sale of recovered products.
 - (10) In carrying out the provisions of this chapter, counties shall be subject to standards set by regulations adopted by the cabinet on waste management pursuant to KRS Chapter 224.

- (11) No county or waste management district shall prohibit long-term contracts by ordinance or other means.
- (12) Counties are expressly authorized in addition to the powers enumerated in KRS Chapter 65 and this chapter to contract with one another in order to regionalize solid waste management to the maximum extent practicable.
- (13) Notwithstanding any other provision of law, a fiscal court may, by ordinance, create a solid waste district to exercise the powers of the county pursuant to this chapter, except that a district created for this purpose shall not levy or collect ad valorem property taxes.

Section 15. KRS 224A.011 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Administrative fee" means a fee assessed and collected by the authority from borrowers under assistance agreements, to be used for operational expenses of the authority.
- (2) "Applicable interest rate" means the rate of interest which shall be used as part of the repayment criteria for an assistance agreement between a governmental agency and the authority, and shall be determined by the authority pertinent to the source of funds from which the assistance agreement is funded.
- (3) "Assistance agreement" means the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter, providing for a lease, loan, services, or grant to the governmental agency or for the purchase of obligations issued by the governmental agency, and for the repayment thereof to the authority by the governmental agency.
- (4) "Authority" means the Kentucky Infrastructure Authority, which is created by this chapter.
- (5) "Authority revenues" means the totality of all:
 - (a) Service charges;
 - (b) Utility tax receipts, to the extent not otherwise committed and budgeted by the authority during any fiscal period of the authority;
 - (c) Any gifts, grants, or loans received, to the extent not otherwise required to be applied;
 - (d) Any and all appropriations made to the authority by the General Assembly of the Commonwealth of Kentucky, to the extent not otherwise required to be applied;
 - (e) All moneys received in repayment of and for interest on any loans made by the authority to a governmental agency, except as provided in KRS 224A.111, 224A.1115, **and** 224A.112, ~~and 224A.270,~~ or as principal of and interest on any obligations issued by a governmental agency and purchased by the authority, or as receipts under any assistance agreement;
 - (f) The proceeds of bonds or long-term debt obligations of governmental agencies pledged to the payment of bond anticipation notes issued by the authority on behalf of the said governmental agency to provide interim construction financing; and
 - (g) Payments under agreements with any agencies of the state and federal government.
- (6) "Borrower or borrowing entity" means any agency of the state or its political subdivisions, any city, or any special district created under the laws of the state acting individually or

jointly under interagency or interlocal cooperative agreements to enter into assistance agreements with the authority.

- (7) "Community flood damage abatement project" means any structural or nonstructural study, plan, design, construction, development, improvement, or other activity to provide for flood control.
- (8) "Construction" means and includes, but is not limited to:
 - (a) Preliminary planning to determine the economic and engineering feasibility of infrastructure projects, the engineering, architectural, legal, fiscal, and economic investigations, and studies necessary thereto, and surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary to the construction of infrastructure or solid waste projects;
 - (b) The erection, building, acquisition, alteration, remodeling, improvement, or extension of infrastructure or solid waste projects; and
 - (c) The inspection and supervision of the construction of infrastructure or solid waste projects and all costs incidental to the acquisition and financing of same. This term shall also relate to and mean any other physical devices or appurtenances in connection with, or reasonably attendant to, infrastructure or solid waste projects.
- (9) "Dams" means any artificial barrier, including appurtenant works, which does or can impound or divert water, and which either:
 - (a) Is or will be twenty-five (25) feet or more in height from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the natural resources cabinet; or
 - (b) Has or will have an impounding capacity at maximum water storage elevation of fifty (50) acre feet or more.
- (10) "Distribution facilities" means all or any part of any facilities, devices, and systems used and useful in obtaining, pumping, storing, treating, and distributing water for agricultural, industrial, commercial, recreational, public, and domestic use.
- (11) "Federal act" means the Federal Clean Water Act (33 U.S.C. secs. 1251 et seq.) as said federal act may be amended from time to time in the future, or any other enactment of the United States Congress providing funds that may assist in carrying out the purposes of the authority.
- (12) "Federally assisted wastewater revolving fund" means that fund which will receive federal and state funds or the proceeds from the sale of revenue bonds of the authority for the purpose of providing loans to finance construction of publicly owned treatment works as defined in Section 212 of the federal act and for the implementation of a management program established under Section 319 of the federal act and for the development and implementation of a conservation and management plan under Section 320 of the federal act.
- (13) "Governmental agency" means any incorporated city or municipal corporation, or other agency, or unit of government within or a department or a cabinet of the Commonwealth of Kentucky, now having or hereafter granted, the authority and power to finance, acquire, construct, or operate infrastructure or solid waste projects. This definition shall specifically apply, but not by way of limitation, to incorporated cities; counties, including any counties

containing a metropolitan sewer district; sanitation districts; water districts; water associations if these associations are permitted to issue interest-bearing obligations which interest would be excludable from gross income under Section 103 of the Internal Revenue Code of 1986 as amended; sewer construction districts; metropolitan sewer districts; sanitation taxing districts; and any other agencies, commissions, districts, or authorities (either acting alone, or in combination with one another in accordance with any regional or area compact, or intergovernmental cooperative agreements), now or hereafter established in accordance with the laws of the Commonwealth of Kentucky having and possessing the described powers described in this subsection.

- (14) "Industrial waste" means any liquid, gaseous, or solid waste substances resulting from any process of industry, manufacture, trade, or business, or from the mining or taking, development, processing, or recovery of any natural resources, including heat and radioactivity, together with any sewage as is present therein, which pollutes the waters of the state, and specifically, but not by way of limitation, means heat or thermal differentials created in the waters of the state by any industrial processing, generating, or manufacturing processes.
- (15) "Infrastructure project" means any construction or acquisition of treatment works, distribution facilities, or water resources projects instituted by a governmental agency or an investor-owned water utility which is approved by the authority and, if required, by the natural resources cabinet, Public Service Commission, or other agency; solid waste projects; dams; storm water control and treatment systems; gas or electric utility; or any other public utility or public service project which the authority finds would assist in carrying out the purposes set out in KRS 224A.300.
- (16) "Infrastructure revolving fund" means that fund which will receive state funds, the proceeds from the sale of revenue bonds of the authority or other moneys earmarked for that fund for the purpose of providing loans or grants to finance construction or acquisition of infrastructure projects as defined in this section.
- (17) "Loan or grant" means moneys to be made available to governmental agencies by the authority for the purpose of defraying all or any part of the total costs incidental to construction or acquisition of any infrastructure project.
- (18) "Market interest rate" means the interest rate determined by the authority under existing market conditions at the time the authority shall provide financial assistance to a governmental agency.
- (19) "Natural resources cabinet" means the Kentucky Natural Resources and Environmental Protection Cabinet, or its successor, said term being meant to relate specifically to the state agency which is designated as the water pollution agency for the Commonwealth of Kentucky, for purposes of the federal act.
- (20) "Obligation of a governmental agency" means a revenue bond, bond anticipation note, revenue anticipation note, lease, or other obligation issued by a governmental agency under KRS 58.010 et seq. or other applicable statutes.
- (21) "Person" means any individual, firm, partnership, association, corporation, or governmental agency.
- (22) "Pollution" means the placing of any noxious or deleterious substances ("pollutants"), including sewage and industrial wastes, in any waters of the state or affecting the properties

of any waters of the state in a manner which renders the waters harmful or inimical to the public health or to animal or aquatic life, or to the use, present or future, of these waters for domestic water supply, industrial or agricultural purposes, or recreational purposes.

- (23) "Prioritization schedules" means the list of wastewater treatment works, distribution facilities and water resources projects which the natural resources cabinet has evaluated and determined to be of priority for receiving financial assistance from the federally assisted wastewater revolving fund and the federally assisted drinking water revolving fund, or the list of infrastructure projects which the authority has evaluated and determined to be of priority for receiving financial aid from the infrastructure revolving fund. The evaluation by the authority of infrastructure projects for water systems shall be undertaken with input from the appropriate area development district.
- (24) "Solid waste project" means construction, renovation, or acquisition of a solid waste facility which shall be instituted and owned by a governmental agency.
- (25) "Recovered material" means those materials which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis.
- (26) "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material but does not mean a solid waste facility if solid waste generated by a recovered material processing facility is managed in accordance with KRS Chapter 224 and administrative regulations adopted by the cabinet.
- (27) "Revenue bonds" means special obligation bonds issued by the authority as provided by the provisions of this chapter, which are not direct or general obligations of the state, and which are payable only from a pledge of, and lien upon, authority revenues as provided in the resolution authorizing the issuance of the bonds, and shall include revenue bond anticipation notes.
- (28) "Service charge" means any monthly, quarterly, semiannual, or annual charge to be imposed by a governmental agency, or by the authority, for any infrastructure project financed by the authority, which service charge arises by reason of the existence of, and requirements of, any assistance agreement.
- (29) "Sewage" means any of the waste products or excrements, or other discharges from the bodies of human beings or animals, which pollute the waters of the state.
- (30) "Solid waste" means "solid waste" as defined by KRS 224.01-010(31)(a).
- (31) "Solid waste facility" means any facility for collection, handling, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether the facility is associated with facilities generating the waste or otherwise, but does not include a container located on property where the waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility.

- (32) "Solid waste revolving fund" means that fund which shall receive state funds, the proceeds from the sale of revenue bonds of the authority, or other moneys earmarked for the purpose of providing loans or grants to finance solid waste projects defined in this section.
- (33) "State" means the Commonwealth of Kentucky.
- (34) "System" means the system owned and operated by a governmental agency with respect to solid waste projects, treatment works, or infrastructure projects financed as provided by the assistance agreement between the governmental agency and the authority.
- (35) "Treatment works" or "wastewater treatment works" means all or any part of any facilities, devices, and systems used and useful in the storage, treatment, recycling, and reclamation of wastewater or the abatement of pollution, including facilities for the treatment, neutralization, disposal of, stabilization, collecting, segregating, or holding of wastewater, including without limiting the generality of the foregoing, intercepting sewers, outfall sewers, pumping power stations, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof, and any wastewater treatment works, including site acquisition of the land that will be an integral part of the wastewater treatment process, or is used for ultimate disposal of residues resulting from wastewater treatment, together with any other facilities which are deemed to be treatment works in accordance with the federal act.
- (36) "Variable rate revenue bonds" means revenue bonds the rate of interest on which fluctuates either automatically by reference to a predetermined formula or index or in accordance with the standards set forth in KRS 224A.120.
- (37) "Wastewater" means any water or liquid substance containing sewage, industrial waste, or other pollutants or contaminants derived from the prior use of these waters.
- (38) "Water resources" means all waters of the state occurring on the surface, in natural or artificial channels, lakes, reservoirs, or impoundments, and in subsurface aquifers, which are available, or which may be made available to agricultural, industrial, commercial, recreational, public, and domestic users.
- (39) "Water resources project" means any structural or nonstructural study, plan, design, construction, development, improvement, or any other activity including programs for management, intended to conserve and develop the water resources of the state and shall include all aspects of water supply, flood damage abatement, navigation, water-related recreation, and land conservation facilities and measures.
- (40) "Waters of the state" means all streams, lakes, watercourses, waterways, ponds, marshes, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, which are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural, surface, or underground waters.
- (41) "Utility tax" means the tax which may be imposed by the authority on every purchase of water or sewer service in the Commonwealth of Kentucky.

Section 16. KRS 224A.100 is amended to read as follows:

The authority may enter into assistance agreements with governmental agencies, and governmental agencies may enter into assistance agreements with the authority in connection with infrastructure projects. Each assistance agreement shall be subject to review by the Capital

Projects and Bond Oversight Committee of the Legislative Research Commission and may contain and include such provisions as may be agreed upon by the parties thereto, and shall include and prescribe the following provisions:

- (1) An estimate of the reasonable cost of the infrastructure project, as determined by the authority;
- (2) The amount of the total rentals under any lease of an infrastructure project, loans or grants to be made to the governmental agency, financing payments, or obligations of the governmental agency to be purchased by the authority;
- (3) The time or times at which the rentals, loans or grants, financing payments or the purchase price of a governmental agency shall become payable by or to the governmental agency;
- (4) The specific purpose or purposes for which the leased infrastructure project will be used or the proceeds of the purchase of obligations of the governmental agency or loan or grant made pursuant to the assistance agreement shall be expended;
- (5) The conditions under which the leased infrastructure project will be used or the proceeds of the purchase of obligations of the governmental agency or loan or grant may be expended on account of the infrastructure project by the governmental agency;
- (6) An agreement by the governmental agency:
 - (a) To proceed expeditiously with and promptly complete the infrastructure project or cause same to be completed in accordance with plans and specifications approved by federal and state regulatory agencies;
 - (b) To commence or cause to be commenced operation of the infrastructure project on completion of construction, and not to discontinue operations or dispose of such infrastructure project without the approval of the authority;
 - (c) To operate and maintain or cause to be operated and maintained the infrastructure project in accordance with the applicable provisions of federal and state law;
 - (d) To disclose fully to the authority all applications for or award of grants or loans for financial assistance, if any;
 - (e) To provide for the payment of the governmental agency's share of the cost of the infrastructure project, if the entire infrastructure project is not financed by assistance from the authority and describe with specificity the manner in which the governmental agency proposes to finance its share of such cost, if any;
- (7) A provision that, if assistance which was not included in the calculation of the loan or grant payable pursuant to subsection (2) of this section becomes available to the governmental agency, the amount of the assistance from the authority shall be recalculated with the inclusion of the additional assistance, and the governmental agency shall pay to the authority the amount, if any, by which the loan or grant actually made, exceeds the loan or grant as determined by the recalculation;
- (8) The extent to which the assistance from the authority shall be repaid to the authority, which shall not be less than the sum of the following, except as provided under KRS 224A.111, 224A.112, ~~224A.270,~~ and ~~[KRS]~~224A.1115:
 - (a) The aggregate principal amount of the loan; and

- (b) Interest on the aggregate balance of the principal amount of the loan from time to time remaining unpaid, computed at the applicable interest rate, plus not to exceed one-quarter of one percent (0.25%), except as provided for in KRS 224A.111, 224A.112, ~~224A.270,~~ and ~~KRS~~ 224A.1115;
- (9) The time or times and amounts when the repayments required by subsection (8) of this section shall be made by the governmental agency to the authority;
- (10) The extent to which a service charge shall be imposed by the governmental agency. Any service charge shall be calculated to produce amounts sufficient to meet the repayment schedule prescribed by subsection (8) of this section; and
- (11) An agreement between the governmental agency and the authority that upon any failure of the governmental agency to make payment to the authority in accordance with the time schedule and repayment schedule fixed by the assistance agreement of the amounts prescribed by said schedules, that in such event the authority may, without further action, require the State Treasurer to pay to the authority such amount of other state revenues, tax sharing, or other state aid, with the exception of funds in aid to education and funds derived from motor fuel taxes or vehicle license taxes pursuant to Section 230 of the Constitution of Kentucky, as the governmental agency may thereafter become entitled to receive from the state, until all delinquent payments pursuant to the repayment schedule, plus interest thereon, from the date of each delinquency at the applicable interest rate per annum, shall have been paid.

SECTION 17. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Exclusive venue for any appeal of a violation, determination, finding of noncompliance, or any other action of the Finance and Administration Cabinet, Natural Resources and Environmental Protection Cabinet, or other state agency relating to any county, urban-county, charter county, consolidated local government, city, special district, or other governmental unit specified in this subchapter and Sections 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 of this Act shall be in the court of competent jurisdiction of the county which is the subject of the action by the state agency.

Section 18. The following KRS sections are repealed:

- 109.062 Use of collection system.
- 109.320 Exemption from pick-up fee.
- 224A.270 Solid waste revolving fund -- Uses.
- 224A.280 Solid waste grant program.
- 224A.290 Short title.

Approved April 23, 2002