

**CHAPTER 26****(SB 152)**

AN ACT relating to the qualifications of members of education governing boards and declaring an emergency.

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

Section 1. KRS 156.040 is amended to read as follows:

- (1) *As used in this section, "relative" means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.***
- (2) *A member of the Kentucky Board of Education shall:***
  - (a) *Be at least thirty (30) years of age;***
  - (b) *Have at least an associate degree or its equivalent;***
  - (c) *Have been a resident of Kentucky for at least three (3) years preceding the member's appointment;***
  - (d) *Not hold a state office requiring the constitutional oath;***
  - (e) *Not be a member of the General Assembly;***
  - (f) *Not hold or discharge the duties of any civil or political office, deputyship, or agency under the city or county of his or her residence;***
  - (g) *Not be directly or indirectly interested in the sale to the Kentucky Board of Education or the Department of Education of books, stationery, or any other property, materials, supplies, equipment, or services for which board or department funds are expended;***
  - (h) *Not have a relative as defined in subsection (1) of this section who is employed by the Department of Education;***
  - (i) *Not have been removed from the board for cause; and***
  - (j) *Not be engaged as an elementary or secondary education professional educator.***
- (3) *Appointments to the board shall be made without reference to occupation, political affiliation, or similar considerations*~~[The members of the Kentucky Board of Education shall have the same qualifications as school board members, except that members shall be at least thirty (30) years of age and shall have at least an associate degree or its equivalent. Appointments shall be made without reference to occupation, political affiliation, or similar considerations. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator].~~**

Section 2. KRS 164.321 is amended to read as follows:

- (1) Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University, Northern Kentucky University, and the Kentucky Community and Technical College System shall each be governed by a board of regents appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.**
  - (a) Each board of the regional universities shall consist of eight (8) members appointed by the Governor, one (1) member of the teaching faculty, one (1) member of the**

university nonteaching personnel, and one (1) member of the student body of the respective university or college. The members of the board shall select a chairperson annually.

- (b) The board of the Kentucky Community and Technical College System shall consist of eight (8) members appointed by the Governor, two (2) members of the teaching faculty, two (2) members of the nonteaching personnel, and two (2) members of the student body.

1. Four (4) members shall be appointed by the Governor from three (3) nominations for each of four (4) appointments, recommended by the board of trustees of the University of Kentucky. The Governor may request additional nominations at his discretion.
2. Four (4) members shall be appointed by the Governor from nominations by the Governor's Postsecondary Nominating Committee, under KRS 164.005.
3. No more than three (3) appointed members of the board shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment.
4. A change in residency of a gubernatorial appointee after the date of appointment shall not affect the appointee's ability to serve *or eligibility for reappointment, except an appointee who assumes residency outside the fifty (50) United States shall become immediately ineligible to serve. The Council on Postsecondary Education shall notify the appointee of his or her ineligibility to serve.*
5. In making initial appointments, the Governor shall act so as to provide equal representation of the two (2) sexes. In filling vacancies, the Governor shall act so as to provide, inasmuch as possible, equal representation of the two (2) sexes by appointing a member of the sex that is the lesser represented at the time of the appointment. If the remaining membership already has an equal number of males and females, the Governor may appoint a member of either sex.

- (2) The terms of appointed members shall be for six (6) years and until their successors are appointed and qualified, except the initial appointments to the board of regents for the Kentucky Community and Technical College System shall be as follows:

- (a) One (1) member shall serve a one (1) year term;
- (b) One (1) member shall serve a two (2) year term;
- (c) Two (2) members shall serve three (3) year terms;
- (d) One (1) member shall serve a four (4) year term;
- (e) One (1) member shall serve a five (5) year term; and
- (f) Two (2) members shall serve six (6) year terms.

New appointees of a board of regents shall not serve for more than two (2) consecutive terms. Board members serving as of May 30, 1997, may be reappointed at the end of their existing terms and may serve two (2) additional full consecutive terms.

- (3) The gubernatorial appointments may include one (1) graduate of the respective institution who resides outside the Commonwealth. Not more than two (2) appointed members of any board shall be residents of one (1) county. The appointments shall reflect the proportional

representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration. Membership on the board shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. Membership on the board shall not be incompatible with any state office. A change in residency after the date of appointment shall not affect a member's ability to serve nor shall it prevent a member's eligibility for reappointment, *except a member who assumes residency outside the fifty (50) United States shall become immediately ineligible to serve. The Council on Postsecondary Education shall notify the appointee of his or her ineligibility to serve.*

- (4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.
- (5) Each member of the board shall serve for the term for which he is appointed and until his successor is appointed and qualified.
- (6)
  - (a) The faculty member shall be a teaching or research member of the faculty of his respective university or college of the rank of assistant professor or above. He shall be elected by secret ballot by all faculty members of his university or college of the rank of assistant professor or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of the board if he ceases being a member of the teaching staff of the university or college. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.
  - (b) The faculty members of the Kentucky Community and Technical College System shall be represented by one (1) faculty member elected from the community colleges and one (1) faculty member elected from the technical institutions to serve three (3) year terms and until their successors are named. The faculty representatives of each branch shall be elected by means of a process established by the board. The faculty members may be reelected but shall not serve more than two (2) consecutive terms. A faculty member shall be ineligible to continue to serve as a member of the board if he ceases to be a member of the faculty at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election. These two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member.
- (7)
  - (a) The nonteaching personnel member in a regional university shall be any full-time staff member excluding the president, vice presidents, academic deans, and academic department chairpersons. He shall represent all nonteaching university employees including, but not limited to, building facilities and clerical personnel. He shall be elected by secret ballot by the nonteaching employees. The nonteaching personnel member shall serve a term of three (3) years and until his successor is elected and qualified. The nonteaching personnel member shall be eligible for reelection, but he shall not be eligible to continue to serve as a member of the board if he ceases being an employee of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.
  - (b) The nonteaching personnel members in the Kentucky Community and Technical College System shall be any full-time staff member excluding a president, chancellor,

vice president, academic dean, academic department chair, or other administrator. They shall represent all nonteaching employees in their respective branch institutions including, but not limited to, support and clerical personnel. One (1) member shall be a representative from the community colleges and one (1) member shall be a representative from the technical institutions. They shall serve three (3) year terms and until their successors are named. These two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member. The nonteaching personnel members of each branch shall be elected by means of a process established by the board. A nonteaching personnel member may be reelected but shall not serve more than two (2) consecutive terms. A nonteaching employee shall be ineligible to continue to serve as a member of the board if that employee ceases to be a nonteaching employee at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.

- (8) (a) The student member on a regional university board shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.
  - (b) Two (2) full-time student members shall be elected to the board of regents for the Kentucky Community and Technical College System. One (1) shall represent students of the community colleges and one (1) shall represent the technical institutions. The student members shall be elected by means of a process established by the board. The student members shall serve one (1) year terms beginning with the first meeting of the fiscal year that contains the academic year. If the student member does not maintain his or her status as a full-time student, a special election shall be held to fill the vacancy. The two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member.
- (9) All persons appointed after May 30, 1997, shall be required to attend and complete an orientation program prescribed by the council under KRS 164.020, as a condition of their service.
  - (10) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council.
  - (11) The initial board of the Kentucky Community and Technical College System shall be appointed by July 31, 1997:
    - (a) By not later than thirty (30) days after May 30, 1997, the Governor's Postsecondary Nominating Committee shall submit nominations to the Governor as set forth in subsection (1) of this section for initial appointments to the board.
    - (b) By June 10, 1997, the board of trustees for the University of Kentucky shall submit nominations to the Governor, as set forth in subsection (1) of this section, for initial appointments to the board. For any subsequent appointment to be made from nominations from the board of trustees, the board of trustees shall forward

nominations thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen vacancy. If the Governor needs nominees of a particular sex in order to make an appointment, the board of trustees shall only provide nominees of that sex.

Section 3. Whereas, questions have been raised regarding the interpretation of existing statutory language which states that state board members shall have the same qualifications as local school board members, and whereas, those questions affect the confirmation process for selected appointees who must be confirmed during this legislative session in order to continue to serve, and whereas, this Act removes the ambiguity from the existing statute, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Approved March 10, 2003**