

**CHAPTER 82****(SB 137)**

AN ACT relating to counties dealing with public indebtedness.

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

Section 1. KRS 11.400 is amended to read as follows:

- (1) In addition to the duties prescribed for the office by the Constitution of the Commonwealth of Kentucky, the duties of the Lieutenant Governor shall be as follows:
  - (a) To serve as vice chairman of the State Property and Buildings Commission as prescribed by KRS 56.450;
  - (b) To serve as vice chairman of the Kentucky Turnpike Authority as prescribed in KRS 175.430;
  - (c) To serve as a member of the Kentucky Council on Agriculture in accordance with KRS 247.417;
  - ~~(d) To serve as vice chairman of the County Debt Commission as provided in KRS 66.300;~~
  - ~~(e) To appoint one (1) member of the Public Officials' Compensation Commission as provided in KRS 64.742;~~
  - ~~(e)(f) To serve as a member of the Board of the Kentucky Housing Corporation in accordance with KRS 198A.030;~~
  - ~~(f)(g) To serve as a member of the Appalachian Development Council as provided in KRS 154.33-020; and~~
  - ~~(g)(h) To serve as a member of Kentucky delegations on the following interstate compact commissions or boards:
    1. The Southern Growth Policies Board as prescribed by KRS 147.585;
    2. The Breaks Interstate Park Commission as provided in KRS 148.225;
    3. The Falls of the Ohio Interstate Park Commission pursuant to KRS 148.242;
    4. The Tennessee-Tombigbee Waterway Development Authority pursuant to KRS 182.305;
    5. The Interstate Water Sanitation Control Commissions as prescribed by KRS 224.18-710; and
    6. The Kentucky Mining Advisory Council for the Interstate Mining Compact as provided by KRS 350.310.~~
- (2) Nothing in this section shall prohibit the Governor and Lieutenant Governor from agreeing upon additional duties within the executive branch of the state government to be performed by the Lieutenant Governor.

Section 2. KRS 66.310 is amended to read as follows:

- (1) No county may issue bonds which, together with all other net indebtedness of the county plus the principal amount of any outstanding self-supporting obligations, is in excess of one-half of one percent (0.5%) of the value of the taxable property therein, as determined by the

next preceding certified assessment, without having first secured the written approval of the state local debt officer. Any other bonds to be issued by any county may be submitted for approval as hereinafter provided. When the fiscal court of any county has petitioned the state local debt officer under KRS 66.320 for assistance in formulating a plan for reorganizing its debt structure, or has received the approval of any issue of county bonds voluntarily as provided in this section, all bonds thereafter issued by the county must be approved as provided in this section.

- (2) Without the approval of the state local debt officer a county may not lease, as lessee, a building or public facility that has been or is to be financed at the county's request or on its behalf through the issuance of bonds by another public body or by a nonprofit corporation serving as an agency and instrumentality of the county for that purpose, unless the bonds, if issued by the county itself as its own general obligations, would be exempt under the provisions of subsection (1). If his *or her* approval is required, the state local debt officer shall hold a hearing for the purpose of considering the terms of the lease upon the same basis as is provided under ~~subsections~~~~[subsection]~~ (3) and (4) of this section, and interested parties shall have the same right of appeal as is therein provided. This subsection does not apply to leases entered into before July 1, 1964, nor to renewals thereafter of leases entered into before that date, nor to bonds referred to in this subsection if those bonds have been sold prior to that date, whether or not actually delivered to the purchaser or purchasers thereof before that date.
- (3) The state local debt officer shall hold a hearing *in accordance with KRS Chapter 13B* for the purpose of determining whether any issue of bonds submitted to him *or her* for approval should be approved or disapproved. *The state local debt officer shall provide notice of the hearing to the county judge/executive of the county proposing to issue bonds, and the county judge/executive shall cause a copy of that notice to be published not less than twenty (20) days in advance of the date set for the hearing. Any person having a material interest in the issuance of the bonds shall have an opportunity to be heard and to present evidence at the hearing held by a hearing officer appointed by the state local debt officer. A record of the proceedings of the hearing shall be made, and the state local debt officer shall review the record and prepare a written decision approving or disapproving the issuance of the proposed bonds. The decision shall set forth the findings of fact upon which the state local debt officer bases his or her decision. On the day that the state local debt officer issues a decision, he or she shall mail a copy to the county judge/executive of the county proposing to issue the bonds and to any person who attended the hearing and requested to receive a copy of the decision.*
- (4) The state local debt officer shall *disapprove the issuance of the proposed bonds*~~[withhold his approval]~~ if he *or she finds that one (1) or more of the following conditions exist:*
- (a) ~~[believes]~~The financial condition and prospects of the county do not warrant a reasonable expectation that interest and principal maturities can be met when due without seriously restricting other expenditures of the county, *including the debt service on the other outstanding obligations of the county;*
  - (b) ~~[if, in his discretion]~~The issue of bonds will not serve the best interests of both the county issuing the bonds and a majority of its creditors; or
  - (c) ~~[if it appears that]~~The bonds or the issuance thereof will be invalid.

- (5) If the state local debt officer is petitioned by any county to approve the issuance of bonds to refund outstanding county bonds, and if the state local debt officer is unable to find that the bonds sought to be refunded were in their entirety validly issued, he *or she* shall nevertheless find that bonds may be issued validly for the purpose of refunding the bonds, in equivalent or lesser par principal amount, provided that the interest rate to be borne by the refunding bonds shall be sufficient to make possible their liquidation within their life at no greater average annual cost to the county than would be required to liquidate, within the same number of years, the portion of the outstanding indebtedness found to be valid at the interest rate borne by it before refunding.
- ~~[(4) The state local debt officer shall give at least two (2) weeks' notice of the hearing required by subsection (2) or (3) of this section to the county judge/executive of the county proposing to issue bonds, and the county judge/executive shall cause a copy of that notice to be published pursuant to KRS Chapter 424. Any party having a material interest shall have an opportunity to be heard and to present evidence. The state local debt officer shall make a record of the proceedings of the hearing and shall prepare a written decision approving or disapproving the issuance of the proposed bonds. Any interested party or taxpayer may within fifteen (15) days, exclusive of Sundays and holidays, appeal to the commission from the decision of the state local debt officer. The commission, upon the basis of the record prepared by the state local debt officer, and of any additional evidence which may be introduced, shall pass upon the decision of the state local debt officer.]~~
- (6)~~[(5)]~~ Within thirty (30) days~~[, exclusive of Sundays and holidays,]~~ after *the date of a decision by the state local debt officer approving a county's proposal to issue bonds*~~[commission]~~, any interested party or taxpayer of the county~~[, upon filing bond for costs,]~~ may appeal to the~~[ Franklin Circuit Court or, in the case only of bonds proposed to be issued for the purpose of funding floating indebtedness, to either the Franklin Circuit Court or to the]~~ Circuit Court of the county proposing to issue *the*~~[those]~~ bonds. Appeal shall be taken by filing *a complaint* with the clerk of the court *and serving a copy of the complaint upon the state local debt officer by certified mail, return receipt requested*~~[a copy of the record of the proceedings and decision of the state local debt officer and the decision of the commission]~~. The ~~[commission, the]~~ fiscal court~~[, the taxpayers of the county,]~~ and, in the case of funding or refunding bonds, the creditors whose claims or bonds are proposed to be funded or refunded, shall be made parties to the appeal. *The state local debt officer shall not be named as a party to an appeal under this subsection, but shall be allowed to intervene in the appeal upon his or her motion.* Summons shall be served and class representatives designated as provided in the Rules of Civil Procedure. *Within thirty (30) days of receipt of the complaint, the state local debt officer shall certify and file a copy of the record of the proceedings and his or her decision with the Circuit Court*~~[To facilitate adjudication, the state local debt officer shall, on payment of a reasonable fee therefor to be fixed by the state local debt officer, supply a certified copy of the records to any party]~~.
- (7) *A county proposing to issue bonds may appeal a decision of the state local debt officer disapproving the issuance of the bonds by filing a complaint with the Franklin Circuit Court within thirty (30) days after the date of the decision. The state local debt officer shall be named as a defendant in an appeal under this subsection. Summons shall be issued and served as provided in the Rules of Civil Procedure. With his or her answer, the state local debt officer shall certify and file a copy of the record of the proceedings and his or her decision.*

- (8) *Appeals to the Circuit Court*~~[The case]~~ shall be advanced on the docket~~[of the Circuit Court]~~ and shall be heard and decided *upon the record certified by the state local debt officer. The*~~[as in the case of a declaratory judgment, except that all]~~ findings of fact of the state local debt officer~~[and of the commission]~~ shall be final if supported by any substantial evidence; however, if only the question of the validity of the bonds proposed to be funded or refunded is in issue, additional evidence relating to the validity of the bonds may be presented.
- (9)~~(6)~~ An appeal may be taken from the Circuit Court to the Court of Appeals in the manner provided in the Rules of Civil Procedure.
- (10)~~(7)~~ If no appeal is taken from the approval of a bond issue by the state local debt officer~~[or the commission]~~ as provided in this section, the decision as to the legality of the bonds shall be res *judicata*~~[adjudicata]~~ in any subsequent case or cases raising the question of their legality.
- (11)~~(8)~~ Record of the approval of bonds as provided in this section shall be made in the minutes of the next meeting of the fiscal court of the county issuing the bonds so approved, and copies of all decisions of the state local debt officer~~[and of the commission]~~ shall be filed with the Secretary of State.
- (12)~~(9)~~ As used in this section, bonds means bonds and obligations.

Section 3. KRS 66.990 is amended to read as follows:

- (1) Any officer who willfully fails to perform his *or her* duty under this chapter shall be deemed guilty of misfeasance in office, and shall be fined not more than one hundred dollars (\$100).
- (2) Any county or state officer who knowingly violates any of the provisions of KRS **66.310** ~~or [66.300 to] 66.320~~ shall, in addition to the specific liabilities imposed for violating any of the provisions of those sections, be guilty of a misdemeanor and, upon conviction thereof, shall have his *or her* office declared vacant, and may also be fined not more than five hundred dollars (\$500) or imprisoned for not more than ninety (90) days, or both so fined and imprisoned.

Section 4. The following KRS section is repealed:

66.300 County Debt Commission -- Appeal from rulings of state local debt officer.

**Approved March 18, 2003**