

CHAPTER 167**(HB 357)**

AN ACT relating to government.

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

Section 1. KRS 74.420 is amended to read as follows:

As used in KRS 74.420 to 74.520, unless the context requires otherwise:

- (1) "Sources of supply of water" means and includes any or all of the following: wells, impounding reservoirs, standpipes, storage tanks, pumps, machinery, purification plants, softening apparatus, trunk mains, and all other appurtenances useful in connection with developing and furnishing a supply of water under pressure into the water distribution systems of the cities, ~~or~~ water districts, ***water associations or federal agencies*** which are represented by a commission created pursuant to the provisions of KRS 74.420 to 74.520.
- (2) "Water association" means a nonprofit corporation formed for the purpose of furnishing water services to the general public pursuant to KRS Chapter 273.

Section 2. KRS 74.430 is amended to read as follows:

In the interest of the public health and for the purpose of providing an adequate supply of water to cities, water associations, ~~and~~ water districts, ***and facilities owned or operated by federal agencies***, any two (2) or more cities, or any two (2) or more water districts organized under this chapter, or any combination of cities, water districts, ~~and~~ water associations, ***and federal agencies*** may jointly acquire, either by purchase or construction, sources of supply of water and may operate jointly the sources of supply of water and improve and extend them in the manner provided in KRS 74.420 to 74.520. The governing body of any city, water association, ~~or~~ water district, ***or federal agency*** desiring to avail themselves of the provisions of KRS 74.420 to 74.520 shall adopt a resolution or ordinance determining and electing to acquire and operate jointly sources of supply of water.

Section 3. KRS 74.440 is amended to read as follows:

- (1) Upon the adoption of an ordinance or resolution by the governing body of each city, water association, or water district, ***or upon a decision by a federal agency***, a certified copy of it shall be filed with the county judge/executive of the county in which the cities, water associations, ~~or~~ water districts, ***or federal agencies*** proposing the creation of the commission having the greatest aggregate population are situated; and upon the filing, the county judge/executive shall by appropriate order set a date for a public hearing on the creation of the commission and shall give reasonable notice of the public hearing, which notice may be given in the manner as provided by KRS Chapter 424. Any customer of the water systems or resident of the cities proposing the creation of the commission may file objections; and at the public hearing if the county judge/executive finds that the establishment of the commission is reasonably necessary or advantageous for the public health, convenience, and comfort of the customers of all the water systems which proposed the creation of the commission, he shall make an order establishing the commission and designating it by name which name shall include the words "water commission."
- (2) If the county judge/executive does not find that the creation of a commission is reasonably necessary or advantageous, he shall make an appropriate order in this regard. Any party in interest may appeal the order to the Circuit Court or the cities, water associations, and water

districts may revise and readopt the ordinances or resolutions, *or the federal agency may revise its decision.*

Section 4. KRS 74.450 is amended to read as follows:

- (1) After the county judge/executive has made an order creating a water commission, the presiding officer of each of the cities, water associations, or water districts which proposed the creation of the commission with the approval of its governing body, *and each federal agency which joined in a proposal* shall appoint one (1) commissioner. If the number of commissioners so appointed by the presiding officers of the cities, water associations, or water districts *and by the federal agency or agencies* shall equal or exceed five (5), no further commissioners shall be appointed and the commissioners shall be and constitute the water commission.
- (2) If the number of commissioners appointed by the presiding officers of the cities, water associations, ~~or~~ water districts, *or federal agencies* shall be less than five (5), the county judge/executive who entered the order creating the commission shall appoint additional commissioners to the commission as necessary to make the number of commissioners equal five (5). The commissioners shall constitute the commission, which shall be a public corporation and a public body corporate and politic with the powers and duties specified in KRS 74.420 to 74.520. The commission may in its corporate name contract and be contracted with, sue and be sued, adopt and alter at its pleasure a corporate seal, and purchase, own, hold, and dispose of all real and personal property necessary for carrying out its corporate purpose under KRS 74.420 to 74.520.
- (3) The commissioners originally appointed shall meet and select by lot their respective terms of office so that approximately one-third (1/3) of the commissioners shall serve for a term of two (2) years, a like number for a term of three (3) years and the remaining commissioner or commissioners for a term of four (4) years. The terms shall be deemed to commence from the first day of the month during which the order of the county judge/executive creating the commission was entered.
- (4) Upon the expiration of the term of office of each of the commissioners, a successor shall be appointed to succeed him for a term of four (4) years and the appointment shall be made in the same manner as the original appointment.
- (5) Each commissioner shall serve until his successor has been appointed and has been qualified. Each commissioner shall be a resident of the service area of the water systems *or an employee of the federal agency* which ~~is~~ represented by the commission. A commissioner shall be eligible for reappointment upon the expiration of his term. A vacancy shall be filled for the balance of the unexpired term in the same manner as that prescribed for the appointment of the person who has ceased to hold office. Each commissioner shall receive the same compensation, which shall not be more than five hundred dollars (\$500) per year, to be fixed by the commission and to be paid out of commission funds, *except that a commissioner representing a federal agency shall serve without compensation.* Each commissioner shall furnish a bond for faithful performance of his official duties. This bond shall not be less than five thousand dollars (\$5,000); the amount shall be fixed by the commission; and its cost shall be paid by the commission.
- (6) Each commissioner may be removed by the official by whom he was appointed, for cause, after hearing by the appointing official and after at least ten (10) days' notice in writing has been given to the commissioner, which notice shall embrace the charges preferred against

him. At the hearing he may be represented by counsel. The finding of the appointing official shall be final and removal results in vacancy in the office. *A federal agency shall determine its own appointment and removal procedures for its representative.*

Section 5. KRS 74.460 is amended to read as follows:

The commission shall organize by appointing a chairman from its own members and a secretary and a treasurer, who need not be commissioners. The secretary shall keep a record of all proceedings of the commission which shall be available for inspection as other public records. The treasurer shall be the lawful custodian of all funds of the commission and shall pay same out on orders authorized or approved by the commission. The secretary and treasurer shall perform other duties appertaining to the affairs of the commission and shall receive the salaries prescribed by the commission, and either or both may be required to furnish bonds in sums to be fixed by the commission for the use and benefit of the commission. The commission shall adopt its own rules of procedure and provide for its meetings. The commission shall have full and complete supervision, management, and control of the sources of supply of water as provided in the ordinances or resolutions for acquiring and operating them, and in their maintenance, operation, and extension. The commission may contract with cities, water associations,~~[-or]~~ water districts, *or federal agencies* which are represented by the commission for furnishing a supply of water to the parties for a period not exceeding fifty (50) years and the governing bodies of the cities, water associations,~~[-or]~~ water districts, *or federal agencies* may enter into the contracts with the commission. For the purpose of acquiring all or any part of its sources of supply of water, the commission may purchase from cities, water associations,~~[-or]~~ water districts, *or federal agencies* which are represented by the commission for mutually agreed terms without regard to actual value any sources of supply of water separate and apart from the water distribution systems of the parties; and the cities, water associations,~~[-or]~~ water districts, *or federal agencies* may convey the sources of supply of water to the commission without any election or voter approval notwithstanding any provision of any other law to the contrary. If any city, water association, or water district has outstanding any obligations which by their terms are in any manner payable from the revenues of their waterworks distribution system, the proceeds received from any conveyance shall be sufficient to retire all of the outstanding obligations, including all interest accrued and to accrue thereon to the date of retirement thereof; and the proceeds when received shall be set aside in a special fund and used for that purpose. The commission may appoint or contract for the services of officers, agents, and employees, including engineers, attorneys, accountants, fiscal agents, and other professional persons, prescribe their duties, and fix their compensation.

Section 6. KRS 74.470 is amended to read as follows:

For the purpose of acquiring, either by purchase or construction, sources of supply of water or for making improvements and extensions to sources of supply of water, a commission may issue revenue bonds payable solely from the revenues to be derived pursuant to water supply contracts with the cities, water districts, water associations, *federal agencies*, political subdivisions, or other public bodies as provided in KRS 74.420 to 74.520. For that purpose the commission may issue revenue bonds and be vested with all of the powers, duties, and responsibilities, including the power of condemnation, delegated and granted to a "governmental agency" under the terms and provisions of KRS Chapter 58, as the law now exists or as it may hereafter be amended. Under the law, the term "governmental agency" means the "commission" and the term "public project" means "sources of supply of water."

Section 7. KRS 74.480 is amended to read as follows:

- (1) When a commission has been created, the cities, water associations,~~[or]~~ water districts, *or federal agencies* represented by the commission shall contract with the commission for water and the contracts may provide that the sources of supply of water of the commission shall be the exclusive water supply for the respective water distribution systems. These cities, water associations, or water districts shall establish charges and rates for water supplied by them to consumers sufficient at all times:
 - (a) To pay the principal of and interest on all outstanding obligations of the cities, water associations, or water districts which by their terms are payable in any manner from the revenues of their respective waterworks distribution systems; and
 - (b) To pay the cost of operation and maintenance of their respective waterworks distribution systems, including the payments to be made to the commission pursuant to contracts for the purchase of water by those cities, water associations, or water districts.
- (2) The commission shall establish charges and rates for water supplied to those cities, water associations,~~[or]~~ water districts, *or federal agencies* represented by the commission sufficient at all times:
 - (a) To pay the principal of and interest on the revenue bonds issued by the commission under the provisions of KRS 74.420 to 74.520;
 - (b) To pay the cost of operation and maintenance of the sources of supply of water; and
 - (c) To provide an adequate fund for renewals, replacements, and reserves.

Contracts entered into between the commission and the cities, water associations, or water districts shall include covenants for the establishment of rates and charges as provided in this section.

Section 8. KRS 74.490 is amended to read as follows:

The commission shall also have the right to supply water to any city, water association, water district, political subdivision, *federal agency* or other public body, or any water distribution system regulated by the Public Service Commission, in addition to the cities, water associations,~~[or]~~ water districts, *or federal agencies* which are represented by the commission, upon the payments, terms, and conditions mutually agreed upon. No capital expenditures shall be made by the commission for the purpose of furnishing water to the other party or parties. Any contract entered into to supply water to a city, water association, water district, *federal agency*, political subdivision, or other public body shall provide that payments to be made thereunder shall be solely from the revenues to be derived by the city, *water association*, water district, political subdivision, or other public body from the operation of the water works distribution system thereof; and the contract shall be a continuing, valid, and binding obligation of the city, *water association*, *federal agency*, water district, political subdivision, or other public body, payable from the revenues for a period of years, not to exceed fifty (50), as provided in the contract. Any contract shall not be a debt of any city, water association, water district, *federal agency*, political subdivision, or other public body within the meaning of any statutory or constitutional limitations.

Section 9. KRS 74.510 is amended to read as follows:

Since the activities of a commission created pursuant to KRS 74.420 to 74.520 are limited to the supply of water under contract to cities, *federal agencies*, or to water distribution systems which are regulated by the Public Service Commission, including water districts and water associations,

as provided in KRS 74.420 to 74.520, and such a commission has no authority to supply water to individual private consumers, such a commission shall not be deemed to constitute a "utility" or "person" within the meaning and application of KRS Chapter 278 and a commission shall not be subject to the jurisdiction of the Public Service Commission.

Section 10. KRS 100.187 is amended to read as follows:

The comprehensive plan shall contain, as a minimum, the following elements:

- (1) A statement of goals and objectives, which shall serve as a guide for the physical development and economic and social well-being of the planning unit;
- (2) A land use plan element, which shall show proposals for the most appropriate, economic, desirable, and feasible patterns for the general location, character, extent, and interrelationship of the manner in which the community should use its public and private land at specified times as far into the future as is reasonable to foresee. Such land uses may cover, without being limited to, public and private, residential, commercial, industrial, agricultural, and recreational land uses;
- (3) A transportation plan element, which shall show proposals for the most desirable, appropriate, economic, and feasible pattern for the general location, character, and extent of the channels, routes, and terminals for transportation facilities for the circulation of persons and goods for specified times as far into the future as is reasonable to foresee. The channels, routes, and terminals may include, without being limited to, all classes of highways or streets, railways, airways, waterways; routings for mass transit trucks, etc.; and terminals for people, goods, or vehicles related to highways, airways, waterways, and railways;
- (4) A community facilities plan element which shall show proposals for the most desirable, appropriate, economic, and feasible pattern for the general location, character, and the extent of public and semipublic buildings, land, and facilities for specified times as far into the future as is reasonable to foresee. The facilities may include, without being limited to, parks and recreation, schools and other educational or cultural facilities, libraries, churches, hospitals, social welfare and medical facilities, utilities, fire stations, police stations, jails, or other public office or administrative facilities;~~and~~
- (5) *(a) Provisions for the accommodation of all military installations greater than or equal in area to three hundred (300) acres that are:*
 1. *Contained wholly or partially within the planning unit's boundaries;*
 2. *Abutting the planning unit's boundaries; or*
 3. *Contained within or abutting any county that contains a planning unit.**(b) The goal of providing for the accommodation of these military installations shall be to minimize conflicts between the relevant military installations and the planning unit's residential population. These provisions shall be made after consultation with the relevant installation's command authorities to determine the needs of any the relevant military installations. These consultations shall include but not be limited to questions of installation expansion, environmental impact, issues of installation safety, and issues relating to air space usage, to include noise pollution, air pollution, and air safety concerns; and*
- (6) The comprehensive plan may include any additional elements such as, without being limited to, community renewal, housing, flood control, pollution, conservation, natural resources,

regional impact, historic preservation, and other programs which in the judgment of the planning commission will further serve the purposes of the comprehensive plan.

Approved March 31, 2003