

CHAPTER 29**(HB 239)**

AN ACT relating to the Kentucky Community and Technical College System.

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

Section 1. KRS 45A.840 is amended to read as follows:

As used in KRS 45A.840 to 45A.879, unless the context requires otherwise:

- (1) "Bond counsel" means an attorney who provides legal counsel to a bond issuing agency with regard to bond issuance and provides an unqualified legal opinion to the agency with respect to validity and tax treatment;
- (2) "Bond issuance" means the formulation, authorization, and issuance of bonds by a bond issuing agency;
- (3) "Bond issuing agency" means the State Property and Buildings Commission, Kentucky Asset/Liability Commission, Turnpike Authority of Kentucky, Kentucky Housing Corporation, Kentucky Infrastructure Authority, Kentucky Higher Education Student Loan Corporation, Kentucky River Authority, Kentucky Agricultural Finance Corporation, Kentucky Local Correctional Facilities Construction Authority, School Facilities Construction Commission, Murray State University, Western Kentucky University, University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Northern Kentucky University, Kentucky State University, University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605, Morehead State University, Eastern Kentucky University, *and* the Kentucky Community and Technical College System~~[for the Technical Institutions' Branch, and the University of Kentucky for the University of Kentucky Community College System]~~;
- (4) "Bonds" means the revenue bonds, notes, or other debt obligations issued by a bond issuing agency;
- (5) "Executive director" means the executive director of the Office of Financial Management;
- (6) "Office" means the Office of Financial Management established by KRS 42.400;
- (7) "Underwriter" means:
 - (a) The financial institution which structures and underwrites the bond issuing agency's issuance of bonds; or
 - (b) The financial advisor or fiscal agent which provides advice or services to the bond issuing agency with respect to the structure, timing, terms, or other matters concerning bond issuance;
- (8) "Underwriter's counsel" means an attorney who provides legal counsel to an underwriter with respect to its work on behalf of a bond issuing agency.

Section 2. KRS 164.001 is amended to read as follows:

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

- (1) "Administrator" means the chief executive officer of the institution;

- (2) "Adult basic education" means instruction in mathematics, science, social studies, reading, language arts, and related areas to enable individuals to better function in society;
- (3) "Benchmarks" means objective measures developed where applicable or practical by the Council on Postsecondary Education to judge the performance of the postsecondary education system and progress toward the goals as stated in KRS 164.003(2);
- (4) "Board" or "governing board" means the board of trustees for the University of Kentucky or the University of Louisville, the board of regents for a regional university, or the board of regents for the Kentucky Community and Technical College System;
- (5) "Board of regents" means the governing board of each regional university and the Kentucky Community and Technical College System;
- (6) "Committee" means the Strategic Committee on Postsecondary Education created in KRS 164.004;
- (7) "Council" means the Council on Postsecondary Education created in KRS 164.011;
- (8) "Customized training" means training in specific academic areas, work processes, or technical skills that are designed to serve a specific industry or industries to upgrade worker skills;
- (9) "Goals" means the six (6) goals specified in KRS 164.003(2);
- (10) "Independent institution" means a nonpublic postsecondary education institution in Kentucky whose instruction is not solely sectarian in nature, is accredited by a regional accrediting association recognized by the United States Department of Education, and is licensed by the Council on Postsecondary Education;
- (11) "Institution" means a university, college, community college, health technology center, vocational-technical school, technical institute, technical college, technology center, or the Kentucky Community and Technical College System;
- (12) "Kentucky Community and Technical College System" means the system composed of *public community and technical colleges, including those postsecondary institutions operated by the Cabinet for Workforce Development and those community colleges in the University of Kentucky Community College System on May 30, 1997*~~[two (2) branches, which are:~~
 - ~~(a) The Technical Institutions' Branch. This branch includes the postsecondary vocational-technical schools, state technical institutes, health technology centers, and technology centers, formerly known as Kentucky Tech and operated by the Cabinet for Workforce Development; and~~
 - ~~(b) The University of Kentucky Community College System, with the exception of the Lexington Community College}.~~

The system also includes institutions created by the board of regents for the Kentucky Community and Technical College System and approved by the General Assembly;

- (13) "Literacy" means an individual's ability to read, write, and speak in English and compute and solve problems at levels of proficiency necessary to function on the job and in society to achieve one's goals and develop one's knowledge and potential;
- (14) "Lower division academic course" means any academic course offered for college or university credit that is designated as a freshman or sophomore level academic course;

- (15) "Nonteaching personnel" means any employee who is a full-time staff member, excluding a president, chancellor, vice president, academic dean, academic department chair, or administrator;
- (16) "Postsecondary education system" means the following public institutions: University of Kentucky, University of Louisville, Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Northern Kentucky University, Western Kentucky University, and the Kentucky Community and Technical College System;
- (17) "P-16 council" or "council of partners" means a local or state council that is composed of educators from public and private preschools, elementary, secondary, and postsecondary education institutions, local board of education members, and may include community and business representatives that have voluntarily organized themselves for the purpose of improving the alignment and quality of the education continuum from preschool through postsecondary education as well as student achievement at all levels;
- (18) "Public" means operated with state support;
- (19) "Relative" means a person's father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, or daughter-in-law;
- (20) "Remedial education" means any program, course, or activity that is designed specifically for students who have basic deficiencies in reading, written or oral communication, mathematics, study skills, or other skills necessary to do beginning postsecondary work as defined by the institution;
- (21) "Standardized degree program" means a program, approved by the Council on Postsecondary Education, that consists of specific competencies, curriculum, and performance requirements regardless of the providing institution;
- (22) "Strategic agenda" means the state strategic postsecondary education agenda described in KRS 164.0203; and
- (23) "Technical institution" means an educational institution that offers certificates, diplomas, or technical degrees in technical or occupational-related programs, including a facility called a vocational-technical school, technical institute, health technology center, technology center, technical college, or similar designation.

Section 3. KRS 164.125 is amended to read as follows:

- (1) The University of Kentucky shall provide:
 - (a) Upon approval of the Council on Postsecondary Education, associate and baccalaureate programs of instruction;
 - (b) Upon approval of the Council on Postsecondary Education, master degree programs, specialist degree programs above the master's-degree level, and joint doctoral programs in cooperation with other public postsecondary educational institutions in the state;
 - (c) Upon approval of the Council on Postsecondary Education, doctoral and post-doctoral programs and professional instruction including law, medicine, dentistry, education, architecture, engineering and social professions.

- (2) The University of Kentucky shall be the principal state institution for the conduct of statewide research and statewide service programs and shall be the primary institution authorized to expend state general fund appropriations on research and service programs of a statewide nature financed principally by state funds. As applied in this section, research and service programs of a statewide nature shall be programs requiring the establishment and operation of facilities or centers outside of the primary service area of the institution. In carrying out its statewide mission, the University of Kentucky shall conduct statewide research and provide statewide services including, but not limited to, agricultural research and extension services, industrial and scientific research, industrial technology extension services to Kentucky employers, and research related to the doctoral, professional, and post-doctoral programs offered within the university. The university may establish and operate centers and utilize state appropriations and other resources to carry out the necessary research and service activities throughout the state. The university may enter into joint research and service activities with other universities in order to accomplish its statewide mission. Nothing contained in this subsection shall limit the authority of the Council on Postsecondary Education to establish instructional programs that are consistent with the strategic agenda.

~~[(3) The University of Kentucky shall provide comprehensive community college programs at the Lexington Community College. The Lexington Community College, as one of the fourteen (14) community colleges that composed the University of Kentucky Community Colleges on May 30, 1997, shall be provided an equitable share of the funds appropriated to improve the funding levels of the community colleges for the 1997-98 fiscal year. Subsequent biennial budget requests for the Lexington Community College shall be included in the University of Kentucky's budget requests, as a separate line item, and shall not be considered a part of the Kentucky Community and Technical College System requests.]~~

Section 4. KRS 164.580 is amended to read as follows:

- (1) The Kentucky Community and Technical College System is established. The Kentucky Community and Technical College System shall provide:
- (a) A general two (2) year academic curriculum with credits transferable to two (2) year and four (4) year colleges and universities;
 - (b) Technical and semiprofessional programs of two (2) years or less;
 - (c) Within a two (2) year college curriculum, courses in general education, including adult education, not necessarily intended for transfer nor technically oriented; and
 - (d) Services to Kentucky's employers and the general public to provide continuing education and customized training for purposes of improving the knowledge and skills of Kentucky workers and citizens in all regions of the state.
- (2) The Kentucky Community and Technical College System shall be responsive to the needs of students and employers in all regions of the Commonwealth with accessible education and training to support the lifelong learning needs of Kentucky citizens in order to:
- (a) Increase the basic academic and literacy skills of adults through adult basic education and remedial education services;
 - (b) Increase the technical skills and professional expertise of Kentucky workers through associate and technical degrees, diploma, and certificate programs;

- (c) Increase the access for students to complete the prebaccalaureate associate degree in arts or associate degree in science for ease of transfer to four (4) year institutions;
 - (d) Enhance the relationship of credentials between secondary and postsecondary programs which permit secondary students to enter programs through early admission, advanced placement, or dual enrollment;
 - (e) Facilitate transfers of credit between certificate, diploma, technical, and associate degree programs;
 - (f) Develop a pool of educated citizens to support the expansion of existing business and industry and the recruitment of new business and industry;
 - (g) Enhance the flexibility and adaptability of Kentucky workers in an ever- changing and global economy through continuing education and customized training for business and industry;
 - (h) Promote the cultural and economic well-being of the communities throughout Kentucky; and
 - (i) Improve the quality of life for Kentucky's citizens.
- (3) Students attending a college under the administration of the board of regents for the Kentucky Community and Technical College System may pursue three (3) kinds of degree programs:
- (a) Associate degree programs approved by the board of trustees as of the effective date of the transfer of the management responsibilities of the University of Kentucky Community College System to the Kentucky Community and Technical College System;
 - (b) Associate degree programs developed by the Kentucky Community and Technical College System, approved by the board of regents and the Council on Postsecondary Education. The board of regents shall confer degrees and award diplomas for the approved programs; and
 - (c) Joint degree programs developed between the Kentucky Community and Technical College System and other institutions.
- (4) University of Kentucky Community College System students who were officially enrolled on or before June 30, 1999, in associate degree programs approved by the board of trustees of the University of Kentucky and who complete the associate degree programs on or before June 30, 2004, shall have their degrees conferred by the University of Kentucky board of trustees. The degrees for all other students enrolled shall be awarded by the board of regents for the Kentucky Community and Technical College System.
- (5) The board of regents for the Kentucky Community and Technical College System shall expedite, whenever possible, action on requests for any new technical or associate degree program of a vocational-technical or occupational nature.
- (6) The Kentucky Community and Technical College System college faculty senates shall have the primary responsibility for determining academic policy and curricula development that shall be recommended to the president of the Kentucky Community and Technical College System.

- (7) ~~[(The)Technical colleges, (Institutions' Branch)]~~ through *their*~~[(its)]~~ faculty and accrediting procedures, may develop degree programs that shall be considered for approval by the board of regents and the Council on Postsecondary Education. A graduate of a program within three (3) years of the program becoming an accredited degree program shall receive all or partial credit toward the degree, based on criteria established by the institution and approved by the board of regents. The board of regents shall confer degrees and award diplomas for these programs.

Section 5. KRS 164.5807 is amended to read as follows:

- (1) Effective upon the affirmative completion of the regional accrediting agency's substantive change process but not later than July 1, 1998, the board of trustees of the University of Kentucky shall delegate to the board of regents of the Kentucky Community and Technical College System the management responsibilities for the University of Kentucky Community College System, except for the Lexington Community College. Responsibilities shall include, but not be limited to, management of facilities and grounds, assets, liabilities, revenues, personnel, programs, financial and accounting services, and support services. In this capacity, the board shall receive and disburse funds and handle other financial matters. The board of regents, in exercising its personnel management responsibilities, shall establish the operating policies and procedures for the University of Kentucky employees in the community colleges. The board of regents shall have the right to appoint and dismiss personnel and to set the compensation for the employees. The president and board of regents of the Kentucky Community and Technical College System shall have jurisdiction over the use and distribution of the resources to operate the system effectively and efficiently.
- (2) All funds that are appropriated to the University of Kentucky Community College System or funds that are allocated in the University of Kentucky budget for administering the community college system~~[(, except for the Lexington Community College,)]~~ shall be transferred and allotted to the board of regents for the benefit of the University of Kentucky Community College System.
 - (a) The board may divide the assets and funds among the specific organizations and institutions within the community college system to meet the mission of the system.
 - (b) Funds held in escrow or invested solely for the purpose of a community college and bequests, and private funds specifically earmarked for a community college may, at the discretion of that local community college, be managed by the University of Kentucky or that local community college.
 - (c) Private funds, foundation funds, and funds raised by a not-for-profit or nonprofit organization for the use and benefit of a specific program or community college shall be used exclusively for that program or that community college.
- (3) Employees in the University of Kentucky Community College System as of the effective date of the transfer of the management responsibilities of the University of Kentucky Community College System to the Kentucky Community and Technical College System shall be governed by the University of Kentucky administrative regulations as of the effective date of the transfer and any subsequent changes made by the university, except that appeals shall be to the board of regents or to the board's designee. The following provisions shall apply:
 - (a) Accumulated sick leave, compensatory time, and annual leave as of the effective date of the transfer shall be retained by each employee;

- (b) Employees with tenure shall retain their tenure. Employees without tenure shall earn tenure based on personnel policies in effect at the time of their employment. New employees without tenure shall earn tenure based on the new policies established by the board;
 - (c) Employees shall maintain a salary not less than their previous salary as of the effective date of the transfer; and
 - (d) All employees hired as of the effective date of the transfer shall be provided the same benefit package available for other University of Kentucky employees as it may be modified by the University of Kentucky for all employees.
- (4) A person employed as of the effective date of the transfer described in subsections (1) and (3) of this section in a University of Kentucky Community College may elect to participate in the new Kentucky Community and Technical College personnel system. An employee who elects to accept this option may not return to the previous personnel policy. The employee shall have the right to exercise this option at any time.
 - (5) New employees hired after July 1, 1997, in the Kentucky Community and Technical College System *and on and after July 1, 2004, at the Lexington Community College* shall be governed by the rules established by the board.
 - (6) A regular full-time employee may, with prior administrative approval, take one (1) course per semester or combination of summer sessions on the University of Kentucky's campus or at a community college during the employee's normal working hours. The University of Kentucky shall defray the registration fee up to a maximum of six (6) credit hours per semester or combination of summer sessions.
 - (7) Students enrolled in the University of Kentucky Community College System shall have all of the responsibilities, privileges, and rights accorded to University of Kentucky Community College System students as of the effective date of the transfer described in subsections (1) and (3) of this section. The privileges shall include, but not be limited to, tickets to athletic events, homecoming queen contests, the Great Teacher Award Contest, and the University of Kentucky scholarship programs.
 - (8) If any conflict arises between the University of Kentucky board of trustees and the Kentucky Community and Technical College board of regents relating to the delegation of authority from the university to the board of regents *in the transfer of the Lexington Community College to* ~~for the management of the University of Kentucky Community College System within~~ the Kentucky Community and Technical College System, the Council on Postsecondary Education shall resolve the conflict.
 - (9) *Notwithstanding any statute to the contrary, the governance and management responsibilities for the Lexington Community College are delegated to the Kentucky Community and Technical College System. The agreement entitled "Memorandum of Agreement Among the University of Kentucky, the Kentucky Community and Technical College System and Lexington Community College Pursuant to House Joint Resolution 214" signed by the respective institutions on July 1, 2004, shall remain in force and effect after the effective date of this Act.*

Section 6. KRS 164.591 is amended to read as follows:

A community college or extension of a community college shall be maintained in each of the following locations: Ashland, Carrollton, Cumberland, Elizabethtown, Glasgow, Henderson,

Hopkinsville, *Fayette County*, Madisonville, Owensboro, Paducah, Prestonsburg, Somerset, Blackey-Hazard, Jefferson County and Mason County. The *headquarters of the administration of the Kentucky Community and Technical College System shall be maintained in Woodford County.* ~~[University of Kentucky may continue to operate a community college in Lexington, and]~~ Western Kentucky University may continue to operate a community college in Bowling Green. Additional extension centers may be established by the board of regents for the Kentucky Community and Technical College System with approval of the Council on Postsecondary Education. New community colleges shall require approval of the General Assembly.

Section 7. KRS 164A.575 is amended to read as follows:

- (1) The governing boards of each institution may elect to purchase interest in real property, contractual services, rentals of all types, supplies, materials, equipment, printing, and services, except that competitive bids may not be required for:
 - (a) Contractual services where no competition exists;
 - (b) Food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies;
 - (c) Instructional materials available from only one (1) source;
 - (d) Where rates are fixed by law or ordinance;
 - (e) Library books;
 - (f) Commercial items that are purchased for resale;
 - (g) Professional, technical, scientific, or artistic services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725;
 - (h) All other commodities, equipment, and services which, in the reasonable discretion of the board, are available from only one (1) source; and
 - (i) Interests in real property.
- (2) Nothing in this section shall deprive the boards from negotiating with vendors who maintain a General Services Administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between General Services Administration and the vendor affected.
- (3) The governing board shall require the institution to take and maintain inventories of plant and equipment.
- (4) The governing board shall establish procedures to identify items of common general usage among all departments to foster volume purchasing. It shall establish and enforce schedules for purchasing supplies, materials, and equipment.
- (5) The governing board shall have power to salvage, to exchange, and to condemn supplies, equipment, and real property.
- (6) Upon the approval of the secretary of the Finance and Administration Cabinet, the governing board may purchase or otherwise acquire all real property determined to be needed for the institution's use. The amount paid shall not exceed the appraised value as determined by a qualified appraiser or the value set by the eminent domain procedure. Any

real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.

- (7) The governing board shall sell or otherwise dispose of all real or personal property of the institution which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the board. The determination of the board shall be set forth in an order, and shall be reached only after review of a written request by the institution desiring to dispose of the property. Such request shall describe the property and state the reasons why the institution believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the appropriate officer of the board. Unless the board deems it in the best interest of the institution to proceed otherwise, all such real or personal property shall be sold either by invitation of sealed bids or by public auction; provided, however, that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the Finance and Administration Cabinet or the Transportation Cabinet for such requirements of that department.
- (8) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employee of any board of the institution, based upon a written application by the grantor or lessor approved by the board, that the employee has not either himself or through any other person influenced or attempted to influence either the board requesting the purchase of the property. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.
- (9)
 - (a) As used in this section, "construction manager-agency," "construction management-at-risk," "design-bid-build," and "design-build" shall have the same meaning as in KRS 45A.030.
 - (b) For capital construction projects, the procurement may be on a total design-bid-build basis, a design-build basis, or construction management-at-risk basis, whichever in the judgment of the board offers the best value to the taxpayer. Proposals shall be reviewed by the institution's engineering staff to assure quality and value, and compliance with procurement procedures. All specifications shall be written to promote competition. Services for projects delivered on the design-build basis or construction management-at-risk basis shall be procured in accordance with KRS 45A.180 and the regulations promulgated in accordance with KRS 45A.180. Nothing in this section shall prohibit the procurement of construction manager-agency services.
- (10) The governing board shall attempt in every practicable way to insure the institution's supplying its real needs at the lowest possible cost. To accomplish this the board may enter into cooperative agreements with other public or private institutions of education or health care.
- (11) The governing board shall have control and supervision over all purchases of energy consuming equipment, supplies, and related equipment purchased or acquired by the institution, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products.

- (12) The governing board may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency must be fully explained, in writing, by the vice president responsible for business affairs and such explanation must be approved by the university president. The letter and approval shall be filed with the record of all such purchases. Where practical, standard specifications shall be followed in making emergency purchases. A good faith effort shall be made to effect a competitively established price for emergency purchases.
- ~~[(13) The acquisition and disposition of real property for the colleges under the jurisdiction of the Kentucky Community and Technical College board of regents that are the property of the University of Kentucky shall be approved by the Kentucky Community and Technical College System board of regents, which shall transmit the action to the University of Kentucky board of trustees for approval.]~~

Approved March 8, 2005.