

CHAPTER 119**(HB 210)**

AN ACT relating to local government.

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

Section 1. KRS 91.750 is amended to read as follows:

As used in KRS 91.750 to 91.762, unless the context otherwise requires:

- (1) "Economic improvement" means any activity or service for the improvement and promotion of a management district that is of special benefit to property within the district, but shall not include any service ordinarily provided throughout the city, ***consolidated local government***, or urban-county from general fund revenues unless an increased level of the service is provided in the management district;
- (2) "City" means a city of the first class;
- (3) "Legislative body" means the legislative body of a city of the first class, ***a consolidated local government***, or of an urban-county government;
- (4) "Management district" means an area designated by a legislative body pursuant to KRS 91.750 to 91.762, that is to be benefited by economic improvements and subjected to the payment of special assessments for the costs of the economic improvements. Areas that may be designated as a management district include, but are not limited to, neighborhoods and business districts;
- (5) "Property" means any real property benefited by economic improvements;
- (6) "Special assessment" means a special charge fixed on property to finance economic improvements in whole or in part;
- (7) "Fair basis" means assessed value basis, front foot basis, square foot basis, or benefits received basis; and
- (8) "Urban-county" means a local government formed as provided by KRS Chapter 67A.
- (9) ***"Consolidated local government" means a local government formed as provided by KRS Chapter 67C.***

Section 2. KRS 91.752 is amended to read as follows:

A city of the first class, ***consolidated local government***, or urban-county government may establish one (1) or more management districts pursuant to KRS 91.750 to 91.762, for the purpose of providing and financing economic improvements that specially benefit property within the management district.

Section 3. KRS 91.754 is amended to read as follows:

- (1) A city, ***consolidated local government***, or urban-county government may initiate proceedings to establish a management district upon receipt by the executive authority of a written petition requesting the formation of a management district. A petition requesting the formation of a management district shall contain:
 - (a) The signatures and addresses of at least thirty-three percent (33%) of the owners of real property within the proposed management district and a number of real property

owners, who together are the owners of real property equal to at least fifty-one percent (51%) of the assessed value of property within the proposed management district;

- (b) An accurate description of the boundaries of the proposed management district;
 - (c) An economic improvement plan that shall provide:
 - 1. A description of the economic improvements to be provided within the district;
 - 2. A preliminary estimate of the annual costs of the proposed economic improvements;~~[-and]~~
 - 3. The proposed method of assessing the costs of the economic improvements against the properties; **and**
 - (d) The proposed makeup of the board of directors of the management district, its powers and duties~~[-and]~~
 - ~~(e) The number of years in which the assessments are proposed to be levied, not to exceed five (5) years.~~
- (2) When a petition satisfying the requirements of subsection (1) of this section is received by the executive authority, he **or she** shall forward it to the legislative body which may proceed to enact an ordinance establishing a management district as provided in KRS 91.756.

Section 4. KRS 91.756 is amended to read as follows:

- (1) An ordinance establishing a management district shall include, but not be limited to, the following provisions:
 - (a) An accurate description of the boundaries of the management district designated either by map or perimeter description;
 - (b) A description of the economic improvements that may be undertaken within the management district by its board of directors, including but not limited to:
 - 1. The planning, administration, and management of development or improvement activities;
 - 2. Landscaping, maintenance, and cleaning of public ways and spaces;
 - 3. The promotion of commercial activity or public events;
 - 4. The conduct of activities in support of business recruitment and development;
 - 5. The provision of security for public areas;
 - 6. The construction and maintenance of capital improvements to public ways and spaces; and
 - 7. Any other economic improvement activity that specially benefits property;
 - (c) A requirement that the legislative body approve the annual budget and annual economic improvement plan for the district and establish a procedure and schedule for such approval;
 - (d) The method of assessment of the properties that may include any fair basis authorized by KRS 91A.200 to 91A.290;
 - (e) The method for collection of the assessment;

~~(f)~~ The number of years, not exceeding five (5) years, in which the assessments shall be levied;

~~(g)~~ A method by which the annual increase in assessments caused by inflation, new growth, and other factors shall be limited;

~~(g)~~~~(h)~~ The makeup of the board of directors for the management district and its powers and duties; and

~~(h)~~~~(i)~~ Any other provisions deemed necessary by the legislative body to implement the provisions of KRS 91.750 to 91.762.

- (2) After the first reading of the ordinance to establish the management district, but prior to its second reading and passage, a public hearing on the question of the establishment of the management district shall be held by the legislative body.
- (3) A summary of the proposed plan for the management district shall be published in a newspaper in accordance with KRS Chapter 424 no less than twice, at least seven (7) but not earlier than twenty-one (21) days before the date of the public hearing. Notice shall also specify the date, time, and place of the hearing. In addition, a copy of the proposed ordinance and the notice of the hearing shall be mailed, by first class mail, to all property owners within the proposed management district.
- (4) After the public hearing, the legislative body may give second reading to the ordinance that shall become effective if passed and approved pursuant to KRS 83.500.
- (5) After the establishment of a management district, the legislative body shall not decrease the level of publicly funded services in the management district existing prior to the creation of the district or transfer the burden of providing the services, unless the services at the same time are decreased throughout the city, *consolidated local government*, or urban-county.

Section 5. KRS 91.758 is amended to read as follows:

- (1) Upon the effective date of the ordinance establishing the management district, a board of directors shall be appointed and shall proceed to implement the economic improvement plan adopted by the legislative body.
- (2) As soon as practicable after its appointment, and each year thereafter as provided by ordinance, the board of directors shall develop a plan for economic improvements within the management district and shall prepare an annual detailed budget for the costs of providing economic improvements and shall submit the plan and budget to the legislative body for its approval.
- (3) Upon approval of the economic improvement plan and annual budget, the board of directors shall publish both pursuant to KRS Chapter 424 and shall mail by first class mail to each affected property owner a description of the plan, the fair basis of assessment to be utilized, the estimated cost to the property owner, and the ratio that the cost to each property owner bears to the total cost of the economic improvements.
- (4) The ordinance establishing the management district shall provide a procedure for the annual collection of the assessment for the economic improvements.
 - (a) The board of directors may be directed to annually prepare and mail by first class mail to an owner of each parcel of real property the annual assessment, and to establish due dates and penalties and interest, if any, for delinquent payment; or

- (b) The annual assessment may be collected in the same manner, at the same times, and by the office authorized by law for the collection and enforcement of general city, **consolidated local government**, or urban-county taxes, in which case the collector of taxes shall make regular remittances of the amounts collected to the board of directors. The penalties and interest for delinquent taxes may be applied to delinquent assessments, or separate penalties and interest may be imposed; however, no discount shall be provided for early payment.
- (c) Notwithstanding the method of collection for the assessment that is adopted, any affected property owner shall be afforded the right to contest the amount of assessment or the inclusion of his **or her** property. The contest shall be filed with the board of directors within thirty (30) days of the receipt of the assessment. The property owner shall have the right to appear before the board of directors and present evidence. A record shall be made of the proceedings and the board of directors shall render a written decision. The decision of the board of directors may be appealed to the Circuit Court of the county in which the city, **consolidated local government**, or urban-county is located.
- (5) The amount of any outstanding assessment on any property, and accrued interest and other charges, shall constitute a lien on the property. The lien shall take precedence over all other liens, whether created prior to or subsequent to the assessment, except a lien for state and county taxes, general municipal, **consolidated local government, or urban-county** taxes, and prior improvement assessments, and shall not be defeated or postponed by any private or judicial sale, by any mortgage, or by any error or mistake in the description of the property or in the names of the owners. No error in the proceedings of the city, **consolidated local government**, or urban-county legislative body or the board of directors of the management district shall exempt any property from the lien for the economic improvement assessment, or from payment thereof, or from the penalties or interest thereon, as herein provided.

Section 6. KRS 91.760 is amended to read as follows:

- (1) The management district shall constitute a body corporate with the power to sue and be sued, and to contract, and shall be controlled by a board of directors.
- (2) The number of members of the board of directors, their terms and qualifications, shall be established by the ordinance creating the district. No fewer than a majority of the board shall be property owners **or representatives of property owners** within the district. The board members shall be appointed by the executive authority of the city, **consolidated local government**, or urban-county, with the approval of the legislative body. **A board member may be removed by the executive authority for violation of the rules, regulations, or operating procedures adopted by the board of directors if the removal is recommended by a majority of the members of the board of directors.**
- (3) The powers of the board of directors shall include all powers set forth in KRS 91.750 to 91.762 and the ordinance establishing the management district. The board of directors may employ or contract with persons to assist it in its responsibilities.
- (4) The board of directors shall manage the fiscal affairs of the management district and shall adopt rules and regulations governing the investment and disbursement of funds. The board of directors may borrow money on a short-term **or long-term** basis as required. The board of directors may hold funds in the name of the management district or may designate the city,

consolidated local government, or urban-county as the fiscal agent for the management district. Money derived from the assessments imposed pursuant to KRS 91.750 to 91.762 shall be used only for economic improvements and the cost of administration of the management district and shall be used for no other purposes. As soon as practicable after the close of the fiscal year, the board of directors shall cause an audit to be performed of all funds of the management district by a certified public accountant.

- (5) In addition to receiving funds from assessments, the board of directors shall be authorized to receive grants, donations, and gifts.

Section 7. KRS 91.762 is amended to read as follows:

- (1) The boundaries of the management district may be changed at any time by the legislative body in the same manner as provided in KRS 91.750 to 91.762 for the establishment of the management district.
- ~~(2) The management district may be renewed for subsequent periods, not to exceed five (5) years, by the legislative body. Prior to such renewal, the board of directors shall prepare an economic improvement plan for the renewal period. The ordinance establishing the management district may provide for automatic renewals if the economic improvement plan is prepared for the renewal period. The management district shall not be renewed if a petition is received that objects to the renewal and is signed by a number of real property owners, who together are the owners of real property equal to at least fifty one percent (51%) of the assessed value of property within the management district.~~
- ~~(3)~~ The management district shall be dissolved by the legislative body upon the receipt of a petition requesting dissolution that is signed by a number of real property owners who together are the owners of real property within the management district equal to at least seventy-five percent (75%) of the assessed value of the property within the management district.
- ~~(3)~~~~(4)~~ If a management district is **to be dissolved**~~terminated or not renewed for a subsequent period~~, and after the payment of all obligations and costs of administration incurred on behalf of the management district, there remain excess funds from assessments paid by property owners, then the city, **consolidated local government**, or urban-county, by ordinance, shall provide for:
- (a) The return of the excess funds to the owners of properties in amounts proportionate to the amounts of the assessments they paid for the district;
 - (b) Use of the excess funds for continued provision of the economic improvements until the excess funds are fully spent; or
 - (c) Use of part of the excess funds for continued provision of economic improvements and return of the balance of the excess funds in proportionate amounts to affected property owners.

Section 8. KRS 100.117 is amended to read as follows:

Any city or county may establish a planning program as an independent operation if the following required procedure is unsuccessful in establishing a joint planning unit encompassing the county and cities therein.

- (1) A city shall interrogate the county and every other city therein to determine whether they desire to enter into an agreement to form a joint planning unit. The interrogation shall be in

writing, addressed to the various legislative bodies stating proposed reasonable terms for combination and the reasoned purpose and objectives. The political subdivisions which have been interrogated shall have sixty (60) days in which to answer in writing and the city may assume that the answer is negative if no response is received within the sixty (60) days. If the county answers in the negative, then the city may engage in an independent planning operation. If the county responds affirmatively, then a joint planning unit shall be established, and no city located in such county may form an independent planning unit. If a city has been operating under an agreement under which its planning operations have been combined with one (1) or several counties or cities and the combination is broken, then it shall follow the procedure set forth in this subsection before it engages in an independent planning operation.

- (2) A county shall interrogate every incorporated city within its boundaries and otherwise be subject to following the procedure established for an independent city operation.
- (3) In a county where independent planning units have been created in accordance with this section, another interrogation shall not be permitted for a period of four (4) years from the date of the previous letter of interrogation. If another interrogation is initiated, the required procedure as defined by this section, shall be followed. If the result of such an interrogation is creation of a joint planning unit, as permitted by KRS 100.121, then all the existing independent planning units shall be dissolved, and no city located in such county may form an independent planning unit. A period of one (1) year from the date of the letter of interrogation shall be permitted for the newly formed joint planning unit to come into existence, during which time the other necessary steps required by this chapter must be complied with and the dissolution of the independent units shall be effective upon compliance with requirements of this chapter, for creation of the joint planning unit, or at the end of the one (1) year period, whichever is first.
- (4) *Any independent planning unit in existence on the effective date of this Act in a county containing all or a portion of a joint planning unit may continue to exist and operate as an independent planning unit and shall not be required to:*
 - (a) *Conduct any interrogation under the provisions of subsection (1) of this section;*
 - (b) *Be subject to the interrogation process in subsection (2) of this section; or*
 - (c) *Dissolve in accordance with the provisions of subsection (3) of this section.*

Approved March 18, 2005.