

CHAPTER 47**(HB 23)**

AN ACT relating to management districts.

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

Section 1. 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 **receive a copy of the** 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) A method by which the annual increase in assessments caused by inflation, new growth, and other factors shall be limited;
 - (g) The **organizational structure** ~~(makeup)~~ of the board of directors for the management district and its powers and duties; and
 - (h) 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 2. 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 **improvements contained in the ordinance**~~[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 **the economic improvement plan and the annual budget** 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 3. 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. **All members of the board shall be property owners, representatives of property owners, or tenants within the district, except for specified ex-officio members designated in the local ordinance. At least two-thirds (2/3) of the total number of board members, including ex-officio members, must be property owners or the representatives of property owners within 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 total aggregate amount of long-term and short-term debt which may be carried by a management district shall not exceed five hundred thousand dollars (\$500,000).*** 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 4. 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 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 ***fifty and one tenth***~~seventy-five~~ percent ***(50.1%)***~~((75%))~~ of the assessed value of the property ***and thirty-three percent (33%) of the number of property owners*** within the management district, ***except that a management district shall not be dissolved if the district has any outstanding indebtedness.***
- (3) If a management district is to be dissolved, 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.

Approved March 24, 2006.