

CHAPTER 80

(HB 734)

AN ACT relating to school finance and declaring an emergency.

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

➔ Section 1. KRS 157.621 is amended to read as follows:

- (1) ***In addition to the levy required by KRS 157.440(1)(b) to participate in the Facilities Support Program of Kentucky, local school districts that have made the levy required by KRS 157.440(1)(b) are authorized to levy the following additional equivalent rates to support debt service, new facilities, or major renovations of existing school facilities, which levies shall not be subject to recall, under any provision of the Kentucky Revised Statutes, or to voter approval under the provisions of KRS 157.440(2):***

- (a) 1. ***Prior to the effective date of this Act, local school districts that have experienced student population growth during a five (5) year period may levy an additional ~~tax~~ five cents (\$0.05) equivalent rate ~~tax~~ for debt service and new facilities ~~in addition to the five cents (\$0.05) levied under the school construction funding program provided in KRS 157.620~~. The tax rate levied by the district under this provision shall not ~~be subject to a recall vote as provided in KRS 160.470(8) and shall not~~ be equalized by state funding, except as provided in paragraph (b) of this subsection. Any levy imposed under this paragraph prior to the effective date of this Act by a local school district shall continue until removed by the local school district.***

- 2.~~(2)~~ A local school district shall meet the following criteria in order to levy the tax provided in ***subparagraph 1.***~~subsection (1)~~ of this ***paragraph***~~section~~:

- a.~~(a)~~ Growth of at least one hundred fifty (150) students in average daily attendance and three percent (3%) overall growth for the five (5) preceding years;
- b.~~(b)~~ Bonded debt to the maximum capability of at least eighty percent (80%) of capital outlay from the Support Education Excellence in Kentucky funding program, all revenue from the local facility tax, and all receipts from state equalization on the local facility tax;
- c.~~(c)~~ Current student enrollment in excess of available classroom space; and
- d.~~(d)~~ A local school facility plan that has been approved by the Kentucky Board of Education and certified to the School Facilities Construction Commission.

~~(3) When the state appropriations amount to the total cost of equalizing the five cents (\$0.05) at the rate prescribed in KRS 157.620, as evidenced in the biennial budget and the budget memorandum, the provisions of this section shall expire.~~

- (b) 1. ***In addition to the levy authorized by paragraph (a) of this subsection, a local school district may levy an additional five cents (\$0.05) equivalent rate under the same terms and conditions established by paragraph (a) of this subsection beginning in fiscal year 2003-2004 if the levy was made prior to the effective date of this Act and, if the local school district:***

- a. ***Levied the five cents (\$0.05) equivalent rate authorized by paragraph (a) of this subsection; and***
- b. ***Still meets the requirements established by paragraph (a)2. of this subsection.***

2. ***Any school district that imposes both the levy authorized by paragraph (a) of this subsection and the additional levy authorized by subparagraph 1. of this paragraph shall receive equalization funding from the state for the levy imposed by paragraph (a) of this subsection beginning in fiscal year 2003-2004. Equalization shall be provided at one hundred fifty percent (150%) of the statewide average per pupil assessment. Equalization funds shall be used as provided in KRS 157.440(1)(b).***

3. ***Any levy imposed under this paragraph prior to the effective date of this Act by a local school district shall continue until removed by the local school district.***

- (c) 1. ***A local school district that meets the following conditions may levy an additional five cents (\$0.05) equivalent rate on and after the effective date of this Act:***

- a. *The local school district is located in a county that will have more students as a direct result of the new mission established for Fort Knox by the Base Realignment and Closure (BRAC) 2005 issued by the United States Department of Defense pursuant to the Defense Base Closure and Realignment Act of 1990, Pub. L. No. 100-526, Part A of Title XXIX of 104 Stat. 1808, 10 U.S.C. sec. 2687 note; and*
 - b. *The commissioner of education has determined, based upon the presentation of credible data, that the projected increased number of students is sufficient to require new facilities or the major renovation of existing facilities to accommodate the new students, and has approved the imposition of the additional levy.*
2. *Any local school district that imposes both the levy authorized by paragraph (a) of this subsection and the additional levy authorized by subparagraph 1. of this paragraph, and that has not received equalization funding under subsection (2) or (3) of this section, shall receive equalization funding from the state for the levy imposed by paragraph (a) of this subsection beginning in the fiscal year following the fiscal year in which the levy authorized by subparagraph 1. of this paragraph is imposed. Equalization shall be provided at one hundred fifty percent (150%) of the statewide average per pupil assessment. Equalization funds shall be used as provided in KRS 157.440(1)(b).*
3. *Any levy imposed under this paragraph by a local school district shall continue until removed by the local school district.*
- (2) *Any local school district that, prior to the effective date of this Act, levied an equivalent rate:*
- (a) *That was subject to recall at the time it was levied; and*
 - (b) *That included a rate of at least five cents (\$0.05) equivalent rate for the purpose of debt service for school construction or major renovation of existing school facilities;*
- shall be eligible for retroactive equalization from the state for that levy at one hundred fifty percent (150%) of the statewide average per pupil assessment, beginning in fiscal year 2003-2004. Equalization funds shall be used as provided in KRS 157.440(1)(b).*
- (3) *Any local school district that:*
- (a) *Levied an equivalent tax rate as of the effective date of this Act, that included at least ten cents (\$0.10) that was devoted to building purposes, or that had debt service corresponding to a ten cents (\$0.10) equivalent rate;*
 - (b) *Did not receive equalized growth funding pursuant to subsection (1)(b)2. of this section; and*
 - (c) *Has been approved by the commissioner of education;*
- shall be eligible for equalization from the state for that levy at one hundred fifty percent (150%) of the statewide average per pupil assessment beginning in fiscal year 2005-2006. Equalization funds shall be used as provided in KRS 157.440(1)(b). Equalization funds shall be available to a local school district pursuant to this subsection until the earlier of June 30, 2025, or the date the bonds for the local school district supported by this equalization funding are retired.*
- (4) (a) *Notwithstanding any other provision of this section, any local school district receiving equalization funding on the effective date of this Act related to an equivalent rate levy described in subsection (1), (2), or (3) of this section shall continue to receive the equalization funding related to the applicable equivalent rate levy, subject to the limitations established by subsections (1), (2), and (3) of this section, until amended by subsequent action of the General Assembly. A local school district described in this paragraph shall not be eligible to receive equalization for any additional equivalent rate levies made by it; and*
- (b) *On and after the effective date of this Act, a local school district not included in paragraph (a) of this subsection shall be prohibited from imposing an equivalent rate levy under the provisions of subsection (1)(a) or (b) of this section, and shall not be eligible for equalization funding under the provisions of this section.*

- (c) *On and after the effective date of this Act, a local school district meeting the requirements of subsection (1)(c) of this section may impose the levy authorized by subsection (1)(c), and shall qualify for equalization as provided in subsection (1)(c) of this section.*

➔Section 2. (1) The provisions of subsection (1)(b) of Section 1 of this Act were originally enacted by the General Assembly in 2003 Ky. Acts ch. 156, Part IX, Special Provisions, Government Operations, 14. Support Education Excellence in Kentucky (SEEK) Program, g., and reaffirmed by the General Assembly through appropriations provided in 2005 Ky. Acts ch. 173, D. Department of Education, 4. Support Education Excellence in Kentucky (SEEK) Program, (14) and 2006 Ky. Acts ch. 252, Part I, Operating Budget, D. Department of Education, 4. Support Education Excellence in Kentucky (SEEK) Program, (12). It is the intent of the General Assembly in enacting this section to:

- (a) Affirm language previously included in the budget as referenced in this subsection, which includes:

1. Authorization for local school districts that imposed the levy prior to the effective date of this Act to continue to impose the levy authorized by subsection (1)(a) of Section 1 of this Act, notwithstanding the provisions of 157.621(3);

2. Authorization for local school districts to impose an additional levy as set forth in subsection (1)(b) of Section 1 of this Act if the levy was imposed prior to the effective date of this Act; and

3. Equalization funding for all local school districts meeting the requirements of Subsection (1)(b)2. of Section 1 of this Act;

(b) To affirm that the levies described in paragraph (a)1. and 2. of this subsection that were imposed prior to the effective date of this Act were not subject to notice, hearing, or recall under any provision of the Kentucky Revised Statutes or to a vote pursuant to the provisions of KRS 157.440(2); and

(c) To clearly provide that it was and is the intent of the General Assembly that the authorization first provided in 2003 Ky. Acts ch. 156, Part IX, Special Provisions, Government Operations, 14. Support Education Excellence in Kentucky (SEEK) Program, g. shall be effective for school districts imposing levies and receiving equalization prior to the effective date of this Act, and shall continue until otherwise amended by the General Assembly.

(2) The provisions of subsection (2) of Section 1 of this Act were originally enacted by the General Assembly in 2005 Ky. Acts ch. 173, Part I, Operating Budget, D. Department of Education, 4. Support Education Excellence in Kentucky (SEEK) Program, (18) and affirmed by the General Assembly in 2006 Ky. Acts ch. 252, Part I, Operating Budget, D. Department of Education, 4. Support Education Excellence in Kentucky (SEEK) Program, (13). The General Assembly recognizes that the equalization funding provided by this section is retroactive and further recognizes that it is the intent of the General Assembly in enacting this provision to affirm the language originally included in the budget bill, and to clearly provide that it was and is the intent of the General Assembly that the authorization first provided in 2005 Ky. Acts ch. 173, Part I, Operating Budget, D. Department of Education, 4. Support Educational Excellence in Kentucky (SEEK) Program, (18) shall continue until otherwise amended by the General Assembly.

(3) The provisions of subsection (3) of Section 1 of this Act were originally enacted by the General Assembly in 2005 Ky. Acts ch. 173, Part I, Operating Budget, D. Department of Education, 4. Support Education Excellence in Kentucky (SEEK) Program, (20) and affirmed by the General Assembly in 2006 Ky. Acts ch. 252, Part I, Operating Budget, D. Department of Education, 4. Support Education Excellence in Kentucky (SEEK) Program, (14). It is the intent of the General Assembly in enacting this provision to affirm the language originally included in the budget bill, and to clearly provide that it was and is the intent of the General Assembly that the authorization first provided in 2005 Ky. Acts ch. 173, Part I, Operating Budget, D., Department of Education, 4. Support Educational Excellence in Kentucky (SEEK) Program, (20) shall continue until otherwise amended by the General Assembly.

➔Section 3. Whereas it is necessary that the intent of the General Assembly with regard to authorized levies for school construction be affirmed as quickly as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor April 11, 2008.