

CHAPTER 76

(SB 88)

AN ACT relating to entities affiliated with local government officials.

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

➔Section 1. KRS 212.638 is amended to read as follows:

All work performed or supplies or materials purchased in carrying out the provisions of KRS 212.626 to 212.639 when involving an expenditure of **twenty thousand dollars (\$20,000)** ~~two thousand five hundred dollars (\$2,500)~~ or more shall be by contract awarded to the lowest and best bidder after advertisement by publication pursuant to KRS Chapter 424. All bids or parts of bids, for any such work or supplies may be rejected by the board. The board, however, may itself do or cause to be done, any part of its work under such conditions as it may prescribe by day labor. The commissioner may act on the behalf of the board in such matters.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 4 of this Act:

- (1) **"Public entity" means any organization that represents a statewide association of local governments where the majority of its governing body is composed of mayors, county judges/executive, or other local elected officials, and whose membership includes any or a combination of the following:**
 - (a) **Cities;**
 - (b) **Counties;**
 - (c) **Charter counties;**
 - (d) **Urban-counties;**
 - (e) **Consolidated local governments; and**
 - (f) **Unified local governments; and**
- (2) **"Affiliated organization" means any incorporated or unincorporated organization staffed, managed, or administered by a public entity.**

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The governing body of a public entity and the governing body of an affiliated organization shall:

- (1) **Be subject to the provisions of KRS 61.870 to 61.884 and all records of the public entity and its affiliated organizations shall be deemed open records and subject to public inspection, unless the record:**
 - (a) **Is excluded from inspection under KRS 61.878;**
 - (b) **Includes information that would provide an unfair competitive advantage to private sector competitors providing insurance coverage or financing services in the Commonwealth;**
 - (c) **Is generated by the public entity or an affiliated organization, is generally recognized as confidential or proprietary, and which, if openly disclosed, would permit an unfair commercial advantage to competitors of the public entity or an affiliated organization; or**
 - (d) **Relates to a fraudulent insurance claim investigation conducted by the public entity or an affiliated organization and does not become evidence in a criminal or civil action. This paragraph shall not be construed to affect the rights of parties in a civil or criminal action to obtain copies of the records pursuant to the rules of discovery applicable to that action;**
- (2) **Be subject to the provisions of KRS 61.800 to 61.850, with the following exceptions:**
 - (a) **Meetings may be closed in accordance with KRS 61.810; and**
 - (b) **Proceedings to discuss insurance rates, proposed rates, or anything that relates to rates if that discussion would jeopardize the competitiveness of the public entity or an affiliated organization may be closed, as well as proceedings which would provide an unfair competitive advantage to private**

sector competitors of the public entity or an affiliated organization providing insurance coverage or financing services in the Commonwealth;

- (3) *By January 15 of each year, establish a schedule of regular meetings consistent with KRS 61.820, and conduct the regular meetings in accordance with the Open Meetings Act, KRS 61.805 to 61.850. A public entity and its affiliated organizations may conduct special or emergency meetings, as set out in KRS 61.823, over telephonic conference call, provided that the public entity or the affiliated organization otherwise adheres to the requirements of KRS 61.805 to 61.850 and provides a designated location or locations where members of the public may attend and hear the audio of each individual participating in the telephonic meeting;*
- (4) *By January 1, 2011, provide a Web site that will allow citizens Internet access to substantial and substantive financial data about expenditures of the public entity and its affiliated organizations. Information on the Web site shall be updated at least on a monthly basis and shall provide the following information not considered confidential by state or federal law:*
 - (a) *The name of the recipient of the funds of the public entity and its affiliated organizations;*
 - (b) *The expenditure type by vendor;*
 - (c) *The amount of the expenditure;*
 - (d) *A description of the purpose of the expenditure, if available;*
 - (e) *The payment date of the expenditure;*
 - (f) *An electronic link to a database displaying the information contained in paragraphs (a) to (e) of this subsection, which information shall remain in the database for at least three (3) years after the payment date of the expenditure;*
 - (g) *The budget adopted by the governing body and its affiliated organizations; and*
 - (h) *The complete annual audit results on a continuing basis;*
- (5) *Beginning August 1, 2010, undergo an annual audit performed by a certified public accountant or the Auditor of Public Accounts. The contract with the certified public accountant shall specify:*
 - (a) *That the certified public accountant shall forward a copy of the audit report and management letters to the Auditor of Public Accounts; and*
 - (b) *That the Auditor of Public Accounts shall have the right to review the certified public accountant's work papers before and after the release of the audit; and*
- (6) *Allow the Office of the Auditor of Public Accounts to conduct, at its discretion, an examination of the public entity and its affiliated organizations.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

By August 1, 2010, the governing body of a public entity and the governing body of any affiliated organization of the public entity shall each:

- (1) *Adopt a procurement policy consistent with KRS 45A.345 to 45A.460 that includes, notwithstanding KRS 45A.380(3) and (10), a transparent, competitive, selection process for licensed professional services, bond underwriting and bond counsel services, and financial and insurance products and services;*
- (2) *Approve a detailed, equitable personnel and compensation policy;*
- (3) *Approve contracts only in accordance with its bylaws and procurement policy;*
- (4) *Establish an independent process to receive, analyze, investigate and resolve concerns relating to the public entity and its affiliated organizations, including alleged violations of the code of ethics required by subsection (6) of this section;*
- (5) *Conduct training for its members relating to their legal and fiduciary responsibilities; and*
- (6) *Adopt a code of ethics that shall include:*
 - (a) *Standards of conduct for its members and its officers and employees;*

- (b) *Requirements for creation and annual filing of financial disclosure statements for its members and its officers and management personnel; and*
- (c) *A policy on the employment of:*
 - 1. *Individuals related to its members; and*
 - 2. *Individuals related to its officers and employees.*

Signed by Governor April 7, 2010.