

**CHAPTER 38****( HB 441 )**

AN ACT relating to toll administration.

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

➔Section 1. KRS 175B.015 is amended to read as follows:

- (1) The Kentucky Public Transportation Infrastructure Authority is hereby established as an independent de jure municipal corporation and political subdivision of the Commonwealth constituting a governmental agency and instrumentality of the Commonwealth. The General Assembly hereby finds and declares that in carrying out its functions, powers, and duties as prescribed in this chapter, the state authority will be performing essential public and government functions that improve the public welfare and prosperity of the people of the Commonwealth by promoting the availability of and enhancing accessibility to improved transportation services within the Commonwealth.
- (2)
  - (a) The state authority shall be composed of the following eleven (11) voting members:
    1. The secretary of the Finance and Administration Cabinet, or the secretary's designee;
    2. The secretary of the Transportation Cabinet;
    3. A representative of the Kentucky Association of Counties, to be appointed by the Governor;
    4. A representative of the Kentucky County Judges/Executive Association, to be appointed by the Governor;
    5. A representative of the Kentucky League of Cities, to be appointed by the Governor; and
    6. Six (6) citizen members to be appointed by the Governor and confirmed by the Senate in accordance with KRS 11.160, at least two (2) of whom shall be familiar with road and bridge design or the financing and administration of transportation infrastructure projects; and
  - (b) Each Kentucky member who shares duties as a presiding officer of a bi-state authority pursuant to KRS 175B.030(4)(a)3. shall serve as a nonvoting ex officio member.
- (3) The ex officio members shall serve for the term of their respective offices.
- (4) Members appointed pursuant to subsection (2)(a)3. to 6. of this section shall begin their terms on October 1, 2009, and shall be appointed for a term of four (4) years; however, in making initial appointments, the members appointed pursuant to subsection (2)(a)6. of this section shall include two (2) members for a term of two (2) years, two (2) members for a term of three (3) years, and two (2) members for a term of four (4) years.
- (5) Vacancies occurring during the term of any member shall be filled in the same manner as the original appointment.
- (6) The members of the state authority shall receive no compensation for their services, but shall be entitled to reimbursement for all reasonable expenses necessary and incidental to the performance of their duties and functions as members of the state authority.
- (7)
  - (a) Members of the state authority shall be considered public servants subject to KRS Chapter 11A.
  - (b) The following individuals or entities shall be prohibited from entering into any contract or agreement with the state authority:
    1. Any member of the state authority, a project authority, or a bi-state authority;
    2. Any spouse, child, stepchild, parent, stepparent, or sibling of a member of the state authority, a project authority, or a bi-state authority; and
    3. Any corporation, limited liability entity, or other business entity of which a person identified in subparagraph 1. or 2. of this paragraph is an owner, member, or partner or has any other ownership interest.
- (8)
  - (a) The chairman of the state authority shall be the secretary of the Transportation Cabinet.
  - (b) The members of the state authority shall elect a vice chairman and a secretary from the membership.

- (9) The Finance and Administration Cabinet shall provide fiscal consultant services to the state authority.
- (10) The state authority shall hold its initial meeting no later than November 1, 2009, and shall meet as needed thereafter, or at least quarterly if any bi-state authority or project authority exists, with adequate notice at the call of the chair. A quorum of at least fifty percent (50%) of the members of the state authority must be present for the state authority to take any action. At least eight (8) members shall vote in the affirmative for the state authority to approve a new project. All other business shall be approved by a majority vote of the members present.
- (11) (a) The state authority shall be attached for administrative purposes to the Transportation Cabinet. The state authority shall establish and maintain an office, and the secretary of the state authority shall maintain complete records of the state authority's actions and proceedings as public records open to inspection.
- (b) The state authority shall employ staff as needed in the conduct of its duties and functions, and shall fix their compensation.
- (12) The state authority may promulgate administrative regulations in accordance with KRS Chapter 13A as needed:
  - (a) *Establishing collection and enforcement procedures, including fines, charges, assessments, and other enforcement mechanisms, for the violation of subsection (4) of Section 2 of this Act, and for violation of any administrative regulation promulgated under this subsection;*
  - (b) *Establishing an appeals process by which a person may contest a violation of subsection (4) of Section 2 of this Act, or a violation of any administrative regulation promulgated under this subsection, by way of an administrative hearing to be conducted in accordance with KRS Chapter 13B;*
  - (c) *Relating to any matters necessary to the efficient administration of tolls when implemented for a project developed under this chapter; and*
  - (d) To fulfill *any other*~~the~~ requirements of this chapter.
- (13) The state authority shall comply with applicable provisions of KRS Chapter 45A in the development of a project and the procurement of goods and services.
- (14) The records of the state authority shall be considered open records pursuant to KRS 61.870 to 61.884.
- (15) The meetings of the state authority shall be considered open meetings pursuant to KRS 61.805 to 61.850.

➔Section 2. KRS 175B.040 is amended to read as follows:

- (1) If imposed as part of the financing plan, tolls shall be fixed and adjusted by the developing authority to provide a fund sufficient with other revenues, if any, to:
  - (a) Pay the cost of maintaining, repairing, and operating the project, unless the cost or any part thereof is being paid by the Commonwealth as authorized by this chapter;
  - (b) Pay the principal of and interest on the project revenue bonds; and
  - (c) Create reserves not to exceed amounts specified in the development agreement.
- (2) Unless a transfer of ownership of a project occurs pursuant to KRS 175B.095, the developing authority shall at all times maintain ownership and control of all tolls and other revenues generated by the project. Tolls shall not be subject to supervision or regulation by any other department, division, authority, board, bureau, or agency of a local government or the Commonwealth.
- (3) (a) The tolls and all other revenues derived from the project, except those revenues necessary to pay the cost of maintenance, repair, and operation and to establish and maintain reserves as may be provided for in the authorization of the issuance of the project revenue bonds or in the trust indenture securing the project revenue bonds, shall be set aside in a sinking fund which shall be pledged to, and charged with, the payment of principal and interest on the project revenue bonds as they become due, and the redemption price or the purchase price of project revenue bonds retired by call or purchase as provided in the authorization of issuance.
- (b) The pledge of the sinking fund shall be valid and binding from the time when the pledge is made.
- (c) The tolls or other revenues received and pledged by the developing authority shall immediately be subject to the lien of the pledge without any physical delivery or further action, and the lien on any

pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the developing authority, whether the parties have received notice or not.

- (d) Neither the proceedings nor any trust indenture by which a pledge is created need be filed or recorded, except in the records of the issuing authority.
- (e) The use and disposition of moneys to the credit of the sinking fund shall be subject to the provisions of the proceedings authorizing the issuance of the project revenue bonds or the trust indenture.
- (4) (a) *Every person utilizing a project developed and tolled under this chapter shall pay the appropriate toll.*
- (b) *Any person who violates the provisions of this subsection shall be subject to the provisions of administrative regulations promulgated pursuant to subsection (12) of Section 1 of this Act.*
- (5) *Upon receiving notice, the cabinet shall suspend or withhold the annual registration of a vehicle used in the commission of a toll violation until:*
  - (a) *The fine, charge, or assessment has been paid; or*
  - (b) *The violation of subsection (4) of this section has been determined not to have occurred.*
- (6) (a) *Toll collection customer account information shall be confidential and not subject to disclosure under KRS 61.870 to 61.884. Contracts relating to toll collection for a project developed and tolled under this chapter shall ensure the confidentiality of all toll collection customer account information.*
- (b) *For the purposes of this section, "toll collection customer account information" means any information collected or received from or about any person who is assessed a toll, including contact information, payment information, trip data, and any other relevant data.*

➔Section 3. The General Assembly hereby recognizes the potential financial hardship created for low income users of a project developed under KRS Chapter 175B for which tolls are implemented as a component of a financing plan for the project. The General Assembly therefore encourages the Kentucky Transportation Cabinet and the Kentucky Public Transportation Infrastructure Authority, together with any bi-state authority or project authority, or any other entity empowered or created to facilitate the construction, operation and financing of a project developed under KRS Chapter 175B, to consider the feasibility of establishing toll rates based on user income level or any other mechanism to ameliorate financial hardship to low income users of a tolled project.

The General Assembly furthermore recognizes the important role public transportation plays in the provision of transit options for the citizens of the Commonwealth. To that end, the General Assembly encourages the Kentucky Transportation Cabinet and the Kentucky Public Transportation Infrastructure Authority, together with any bi-state authority or project authority, or any other entity empowered or created to facilitate the construction, operation and financing of a project developed under KRS Chapter 175B, to consider the feasibility of exempting mass transit vehicles from the payment of tolls for any project developed under the provisions of that chapter.

**Signed by Governor March 19, 2013.**