

**CHAPTER 138****( HB 208 )**

AN ACT relating to finance.

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

➔Section 1. KRS 11.065 is amended to read as follows:

- (1) The secretaries of the Justice and Public Safety Cabinet, the Education and Workforce Development Cabinet, the Public Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Cabinet for Health and Family Services, the Finance and Administration Cabinet, the Energy and Environment Cabinet, the Labor Cabinet, the Tourism, Arts and Heritage Cabinet, the Personnel Cabinet, the Governor's Executive Cabinet, *the chief information officer*, the state budget director, the Governor's chief of staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.
- (2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.
- (3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

➔Section 2. KRS 42.722 is amended to read as follows:

As used in KRS 42.720 to 42.742, unless the context requires otherwise:

- (1) "Communications" or "telecommunications" means any transmission, emission, or reception of signs, signals, writings, images, and sounds of intelligence of any nature by wire, radio, optical, or other electromagnetic systems, and includes all facilities and equipment performing these functions;
- (2) "Geographic information system" or "GIS" means a computerized database management system for the capture, storage, retrieval, analysis, and display of spatial or locationally defined data;
- (3) "Information resources" means the procedures, equipment, and software that are designed, built, operated, and maintained to collect, record, process, store, retrieve, display, and transmit information, and associated personnel;
- (4) "Information technology" means data processing and telecommunications hardware, software, services, supplies, facilities, maintenance, and training that are used to support information processing and telecommunications systems to include geographic information systems;~~and~~
- (5) "Project" means a program to provide information technologies support to functions within an executive branch state agency, which should be characterized by well-defined parameters, specific objectives, common benefits, planned activities, expected outcomes and completion dates, and an established budget with a specified source of funding; *and*
- (6) *"Technology infrastructure" means any computing equipment, servers, networks, storage, desktop support, telephony, enterprise shared systems, information technology security, disaster recovery, business continuity, database administration, and software licensing.*

➔Section 3. KRS 42.724 is amended to read as follows:

- (1) There is hereby created within the Finance and Administration Cabinet an agency of state government known as the Commonwealth Office of Technology.
- (2) The Commonwealth Office of Technology shall be headed by an executive director, *also known as the chief information officer*, appointed by the secretary of the Finance and Administration Cabinet. Duties and

functions of the executive director shall include *servicing on the Governor's Executive Cabinet and* those established in KRS 42.730.

- (3) The Commonwealth Office of Technology shall consist of the following **five (5)**~~four (4)~~ offices, each headed by an executive director and organized into divisions headed by a division director:
- (a) Office of Enterprise Technology, **consisting of the:**
    - 1. ~~{which shall contain the}~~ Division of IT Governance; **and**
    - 2. **Division of Enterprise Architecture;**
  - (b) Office of Infrastructure Services, consisting of the:
    - 1. Division of Technical Services;
    - 2. Division of Communications;
    - 3. Division of IT Operations; **and**
    - 4. Division of Field Services;~~{and~~
    - 5. ~~Division of Printing Services, which shall be responsible for the printing and duplicating needs of state agencies as designated by the Finance and Administration Cabinet.}~~
  - (c) Office of Application Development, consisting of the:
    - 1. Division of **Revenue Application Development**~~{Financial Information Technology}~~;
    - 2. Division of Agency **Application Development**~~{Information Technology}~~;
    - 3. Division of **Development** Support Services;~~{and}~~
    - 4. Division of Geographic Information Systems; and
    - 5. **Division of Data Management Services;**
  - (d) Office of Chief Information Security Officer. The office shall ensure the efficiency and effectiveness of information technology security functions and responsibilities; **and**
  - (e) **Office of Information Technology Service Management.**
- (4) Executive directors and division directors appointed under this section shall be appointed by the secretary with the approval of the Governor.

➔Section 4. KRS 42.726 is amended to read as follows:

- (1) The roles and duties of the Commonwealth Office of Technology shall include but not be limited to:
- (a) Providing technical support and services to all executive agencies of state government in the application of information technology;
  - (b) Assuring compatibility and connectivity of Kentucky's information systems;
  - (c) Developing strategies and policies to support and promote the effective applications of information technology within state government as a means of saving money, increasing employee productivity, and improving state services to the public, including electronic public access to information of the Commonwealth;
  - (d) Developing, implementing, and managing strategic information technology directions, standards, and enterprise architecture, including implementing necessary management processes to assure full compliance with those directions, standards, and architecture. This specifically includes but is not limited to directions, standards, and architecture related to the privacy and confidentiality of data collected and stored by state agencies;
  - (e) Promoting effective and efficient design and operation of all major information resources management processes for executive branch agencies, including improvements to work processes;
  - (f) Developing, implementing, and maintaining the technology infrastructure of the Commonwealth **and all related support staff, planning, administration, asset management, and procurement for all executive branch cabinets and agencies except:**
    - 1. **Agencies led by a statewide elected official;**

2. *The nine (9) public institutions of postsecondary education;*
  3. *The Department of Education's services provided to local school districts;*
  4. *The Kentucky Retirement Systems and the Teachers' Retirement System;*
  5. *The Kentucky Housing Corporation;*
  6. *The Kentucky Lottery Corporation;*
  7. *The Kentucky Higher Education Student Loan Corporation; and*
  8. *The Kentucky Higher Education Assistance Authority;*
- (g) Facilitating and fostering applied research in emerging technologies that offer the Commonwealth innovative business solutions;
  - (h) Reviewing and overseeing large or complex information technology projects and systems for compliance with statewide strategies, policies, and standards, including alignment with the Commonwealth's business goals, investment, and other risk management policies. The executive director is authorized to grant or withhold approval to initiate these projects;
  - (i) Integrating information technology resources to provide effective and supportable information technology applications in the Commonwealth;
  - (j) Establishing a central statewide geographic information clearinghouse to maintain map inventories, information on current and planned geographic information systems applications, information on grants available for the acquisition or enhancement of geographic information resources, and a directory of geographic information resources available within the state or from the federal government;
  - (k) Coordinating multiagency information technology projects, including overseeing the development and maintenance of statewide base maps and geographic information systems;
  - (l) Providing access to both consulting and technical assistance, and education and training, on the application and use of information technologies to state and local agencies;
  - (m) In cooperation with other agencies, evaluating, participating in pilot studies, and making recommendations on information technology hardware and software;
  - (n) Providing staff support and technical assistance to the Geographic Information Advisory Council and the Kentucky Information Technology Advisory Council;
  - (o) Overseeing the development of a statewide geographic information plan with input from the Geographic Information Advisory Council; and
  - (p) Preparing proposed legislation and funding proposals for the General Assembly that will further solidify coordination and expedite implementation of information technology systems.
- (2) The Commonwealth Office of Technology may:
    - (a) Provide general consulting services, technical training, and support for generic software applications, upon request from a local government, if the executive director finds that the requested services can be rendered within the established terms of the federally approved cost allocation plan;
    - (b) Promulgate administrative regulations in accordance with KRS Chapter 13A necessary for the implementation of KRS 42.720 to 42.742, 45.253, 171.420, 186A.040, 186A.285, and 194A.146;
    - (c) Solicit, receive, and consider proposals from any state agency, federal agency, local government, university, nonprofit organization, private person, or corporation;
    - (d) Solicit and accept money by grant, gift, donation, bequest, legislative appropriation, or other conveyance to be held, used, and applied in accordance with KRS 42.720 to 42.742, 45.253, 171.420, 186A.040, 186A.285, and 194A.146;
    - (e) Make and enter into memoranda of agreement and contracts necessary or incidental to the performance of duties and execution of its powers, including, but not limited to, agreements or contracts with the United States, other state agencies, and any governmental subdivision of the Commonwealth;

- (f) Accept grants from the United States government and its agencies and instrumentalities, and from any source, other than any person, firm, or corporation, or any director, officer, or agent thereof that manufactures or sells information resources technology equipment, goods, or services. To these ends, the Commonwealth Office of Technology shall have the power to comply with those conditions and execute those agreements that are necessary, convenient, or desirable; and
- (g) Purchase interest in contractual services, rentals of all types, supplies, materials, equipment, and other services to be used in the research and development of beneficial applications of information resources technologies. Competitive bids may not be required for:
  - 1. New and emerging technologies as approved by the executive director or her or his designee; or
  - 2. Related professional, technical, or scientific services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725.
- (3) Nothing in this section shall be construed to alter or diminish the provisions of KRS 171.410 to 171.740 or the authority conveyed by these statutes to the Archives and Records Commission and the Department for Libraries and Archives.

➔Section 5. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

➔Section 6. The General Assembly hereby confirms Executive Order 2013-403, dated June 14, 2013, to the extent it is not otherwise confirmed or superseded by this Act.

➔Section 7. KRS 141.438 is amended to read as follows:

- (1) For taxable years beginning on or after January 1, 2011, there is hereby established the Endow Kentucky tax credit.
- (2) A taxpayer providing an endowment gift to a permanent endowment fund of a qualified community foundation, or county-specific component fund, or affiliate community foundation, which has been certified under KRS 147A.325, and meeting the requirements of subsection (7) of this section, may claim a credit against the taxes imposed by KRS 141.020 or 141.040 and 141.0401. The ordering of the credit shall be as provided in KRS 141.0205.
- (3) The credit shall be equal to twenty percent (20%) of the value of the endowment gift provided by the taxpayer, not to exceed ten thousand dollars (\$10,000).
- (4) The credit shall be nonrefundable, but any amount of credit that a taxpayer is not able to utilize during a particular taxable year may be carried forward for use in a subsequent taxable year, for a period not to exceed five (5) years.
- (5) No tax credit claimed under this section may be sold or transferred. If the taxpayer is a pass-through entity not subject to tax under KRS 141.040, the amount of approved credit shall be applied against the tax imposed by KRS 141.0401 at the entity level, and shall also be distributed to each partner, member, or shareholder based on the partner's, member's, or shareholder's distributive share of the income of the pass-through entity.
- (6) The total amount of tax credit that may be awarded under this section shall be limited to:
  - (a) Five hundred thousand dollars (\$500,000) in each fiscal year ***beginning on or before July 1, 2015; and***
  - (b) ***One million dollars (\$1,000,000) in each fiscal year beginning on or after July 1, 2016.***
- (7) A taxpayer pursuing a tax credit under this section shall:
  - (a) File an application for preliminary authorization of the tax credit with the department;
  - (b) After receiving preliminary authorization from the department, provide an endowment gift to a qualified community foundation, county-specific component fund, or affiliate community foundation which has been certified under KRS 147A.325 within thirty (30) days of the date of the notice of authorization for the tax credit from the department; and
  - (c) Within ten (10) days of making the gift, report to the department proof of the endowment gift.
- (8) (a) The department shall:

1. Create the application required to be filed by the taxpayer seeking preliminary approval for the tax credit; and
  2. Publish on its Web site the amount of total credit allocated to date, the date the last processed application for preliminary approval was received, and the remaining credit available.
- (b)
1. Upon receipt of an application for preliminary approval submitted under subsection (7) of this section, the department shall review the application and, if approved, the department shall issue a notice of preliminary approval to the requesting taxpayer.
  2. The notice of preliminary approval shall include the amount of credit, shall notify the taxpayer that the proposed gift must be made within thirty (30) days of the date reflected on the notice of authorization, and that the taxpayer must notify the department that the gift has been made, in the form and format determined by the department, within ten (10) days of making the gift.
  3. Upon preliminary approval of an application for credit, the department shall reduce the outstanding available credit cap amount to reflect the preliminary approved credit.
- (c) Upon timely receipt of notification from a taxpayer preliminarily approved for a credit that the investment has been timely made, the department shall verify the information provided and, if the information is accurate, the department shall issue a final tax credit letter to the taxpayer.
- (d) If a taxpayer fails to make the required investment or provide proof of the investment to the department within the time frames established by this subsection and subsection (7) of this section, the department shall void the preliminary approval and shall restore the allocated amounts to the tax credit cap.

**Signed by Governor April 25, 2014.**