

**CHAPTER 176****( HB 302 )**

AN ACT relating to the operation of state government.

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

➔Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

- (1) The Governor.
- (2) Lieutenant Governor.
- (3) Department of State.
  - (a) Secretary of State.
  - (b) Board of Elections.
  - (c) Registry of Election Finance.
- (4) Department of Law.
  - (a) Attorney General.
- (5) Department of the Treasury.
  - (a) Treasurer.
- (6) Department of Agriculture.
  - (a) Commissioner of Agriculture.
  - (b) Kentucky Council on Agriculture.
- (7) Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
  - (a) Department of Kentucky State Police.
  - (b) Department of Criminal Justice Training.
  - (c) Department of Corrections.
  - (d) Department of Juvenile Justice.
  - (e) Office of the Secretary.
  - (f) Office of Drug Control Policy.
  - (g) Office of Legal Services.
  - (h) Office of the Kentucky State Medical Examiner.
  - (i) Parole Board.

- (j) Kentucky State Corrections Commission.
- (k) Office of Legislative and Intergovernmental Services.
- (l) Office of Management and Administrative Services.
- (m) Department of Public Advocacy.
- (2) Education and Workforce Development Cabinet:
  - (a) Office of the Secretary.
    - 1. Governor's Scholars Program.
    - 2. Governor's School for Entrepreneurs Program.
  - (b) Office of Legal and Legislative Services.
    - 1. Client Assistance Program.
  - (c) Office of Communication.
  - (d) Office of Budget and Administration.
    - 1. Division of Human Resources.
    - 2. Division of Administrative Services.
  - (e) Office of Technology Services.
  - (f) Office of Educational Programs.
  - (g) Office for Education and Workforce Statistics.
  - (h) Board of the Kentucky Center for Education and Workforce Statistics.
  - (i) Board of Directors for the Center for School Safety.
  - (j) Department of Education.
    - 1. Kentucky Board of Education.
    - 2. Kentucky Technical Education Personnel Board.
  - (k) Department for Libraries and Archives.
  - (l) Department of Workforce Investment.
    - 1. Office for the Blind.
    - 2. Office of Vocational Rehabilitation.
    - 3. Office of Employment and Training.
      - a. Division of Grant Management and Support.
      - b. Division of Workforce and Employment Services.
      - c. Division of Unemployment Insurance.
  - (m) Foundation for Workforce Development.
  - (n) Kentucky Office for the Blind State Rehabilitation Council.
  - (o) Kentucky Workforce Investment Board.
  - (p) Statewide Council for Vocational Rehabilitation.
  - (q) Unemployment Insurance Commission.
  - (r) Education Professional Standards Board.
    - 1. Division of Educator Preparation.
    - 2. Division of Certification.
    - 3. Division of Professional Learning and Assessment.

4. Division of Legal Services.
- (s) Kentucky Commission on the Deaf and Hard of Hearing.
- (t) Kentucky Educational Television.
- (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
  - (a) Office of the Secretary.
    1. Office of Legislative and Intergovernmental Affairs.
    2. Office of General Counsel.
    3. Office of Administrative Hearings.
    4. Mine Safety Review Commission.
    5. Kentucky State Nature Preserves Commission.
    6. Kentucky Public Service Commission.
  - (b) Department for Environmental Protection.
    1. Office of the Commissioner.
    2. Division for Air Quality.
    3. Division of Water.
    4. Division of Environmental Program Support.
    5. Division of Waste Management.
    6. Division of Enforcement.
    7. Division of Compliance Assistance.
  - (c) Department for Natural Resources.
    1. Office of the Commissioner.
    2. Division of Technical and Administrative Support.
    3. Division of Mine Permits.
    4. Division of Mine Reclamation and Enforcement.
    5. Division of Abandoned Mine Lands.
    6. Division of Oil and Gas.
    7. Division of Mine Safety.
    8. Division of Forestry.
    9. Division of Conservation.
    10. Office of the Reclamation Guaranty Fund.
  - (d) Department for Energy Development and Independence.
    1. Division of Efficiency and Conservation.
    2. Division of Renewable Energy.
    3. Division of Biofuels.
    4. Division of Energy Generation Transmission and Distribution.
    5. Division of Carbon Management.
    6. Division of Fossil Energy Development.

- (4) Public Protection Cabinet.
  - (a) Office of the Secretary.
    - 1. Office of Communications and Public Outreach.
    - 2. Office of Legal Services.
      - a. Insurance Legal Division.
      - b. Charitable Gaming Legal Division.
      - c. Alcoholic Beverage Control Legal Division.
      - d. Housing, Buildings and Construction Legal Division.
      - e. Financial Institutions Legal Division.
      - f. Professional Licensing Legal Division.**
    - 3. **Office of Administrative Hearings.**
  - (b) Kentucky Claims Commission.
  - (c) Kentucky Boxing and Wrestling Commission.
  - (d) Kentucky Horse Racing Commission.
    - 1. Office of Executive Director.
      - a. Division of Pari-mutuel Wagering and Compliance.
      - b. Division of Stewards.
      - c. Division of Licensing.
      - d. Division of Enforcement.
      - e. Division of Incentives and Development.
      - f. Division of Veterinary Services.
  - (e) Department of Alcoholic Beverage Control.
    - 1. Division of Distilled Spirits.
    - 2. Division of Malt Beverages.
    - 3. Division of Enforcement.
  - (f) Department of Charitable Gaming.
    - 1. Division of Licensing and Compliance.
    - 2. Division of Enforcement.
  - (g) Department of Financial Institutions.
    - 1. Division of Depository Institutions.
    - 2. Division of Non-Depository Institutions.
    - 3. Division of Securities.
  - (h) Department of Housing, Buildings and Construction.
    - 1. Division of Fire Prevention.
    - 2. Division of Plumbing.
    - 3. Division of Heating, Ventilation, and Air Conditioning.
    - 4. Division of Building Code Enforcement.
  - (i) Department of Insurance.
    - 1. Division of Insurance Product Regulation.

2. Division of Administrative Services.
  3. Division of Financial Standards and Examination.
  4. Division of Agent Licensing.
  5. Division of Insurance Fraud Investigation.
  6. Division of Consumer Protection.
  7. Division of Kentucky Access.
- (j) Department of Professional Licensing.
1. Real Estate Authority.
- (5) Labor Cabinet.
- (a) Office of the Secretary.
1. Division of Management Services.
  2. Office of General Counsel.
    - a. Workplace Standards Legal Division.
    - b. Workers' Claims Legal Division.
- (b) Office of General Administration and Program Support for Shared Services.
1. Division of Human Resource Management.
  2. Division of Fiscal Management.
  3. Division of Budgets.
  4. Division of Information Services.
- (c) Office of Inspector General for Shared Services.
- (d) Department of Workplace Standards.
1. Division of Apprenticeship.
  2. Division of Occupational Safety and Health Compliance.
  3. Division of Occupational Safety and Health Education and Training.
  4. Division of Wages and Hours.
- (e) Department of Workers' Claims.
1. Division of Workers' Compensation Funds.
  2. Office of Administrative Law Judges.
  3. Division of Claims Processing.
  4. Division of Security and Compliance.
  5. Division of Information Services.
  6. Division of Ombudsman and Workers' Compensation Specialist Services.
  7. Workers' Compensation Board.
- (f) Workers' Compensation Funding Commission.
- (g) Occupational Safety and Health Standards Board.
- (h) Apprenticeship and Training Council.
- (i) State Labor Relations Board.
- (j) Employers' Mutual Insurance Authority.

- (k) Kentucky Occupational Safety and Health Review Commission.
- (l) Workers' Compensation Nominating Committee.
- (6) Transportation Cabinet:
  - (a) Department of Highways.
    - 1. Office of Project Development.
    - 2. Office of Project Delivery and Preservation.
    - 3. Office of Highway Safety.
    - 4. Highway District Offices One through Twelve.
  - (b) Department of Vehicle Regulation.
  - (c) Department of Aviation.
  - (d) Department of Rural and Municipal Aid.
    - 1. Office of Local Programs.
    - 2. Office of Rural and Secondary Roads.
  - (e) Office of the Secretary.
    - 1. Office of Public Affairs.
    - 2. Office for Civil Rights and Small Business Development.
    - 3. Office of Budget and Fiscal Management.
    - 4. Office of Inspector General.
  - (f) Office of Support Services.
  - (g) Office of Transportation Delivery.
  - (h) Office of Audits.
  - (i) Office of Human Resource Management.
  - (j) Office of Information Technology.
  - (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
  - (a) Office of the Secretary.
    - 1. Office of Legal Services.
    - 2. Department for Business Development.
      - a. Office of Entrepreneurship.
        - i. Commission on Small Business Advocacy.
      - b. Office of Research and Public Affairs.
      - c. Bluegrass State Skills Corporation.
    - 3. Office of Financial Services.
      - a. Kentucky Economic Development Finance Authority.
      - b. Division of Finance and Personnel.
      - c. Division of Network Administration.
      - d. Compliance Division.
      - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:

- (a) Office of the Secretary.
  - (b) Office of Health Policy.
  - (c) Office of Legal Services.
  - (d) Office of Inspector General.
  - (e) Office of Communications and Administrative Review.
  - (f) Office of the Ombudsman.
  - (g) Office of Finance and Budget.
  - (h) Office of Human Resource Management.
  - (i) Office of Administrative and Technology Services.
  - (j) Department for Public Health.
  - (k) Department for Medicaid Services.
  - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
  - (m) Department for Aging and Independent Living.
  - (n) Department for Community Based Services.
  - (o) Department for Income Support.
  - (p) Department for Family Resource Centers and Volunteer Services.
  - (q) Kentucky Commission on Community Volunteerism and Service.
  - (r) Kentucky Commission for Children with Special Health Care Needs.
  - (s) Governor's Office of Electronic Health Information.
  - (t) Office of Legislative and Regulatory Affairs.
- (9) Finance and Administration Cabinet:
- (a) Office of the Secretary.
  - (b) Office of the Inspector General.
  - (c) Office of Legislative and Intergovernmental Affairs.
  - (d) Office of General Counsel.
  - (e) Office of the Controller.
  - (f) Office of Administrative Services.
  - (g) Office of Policy and Audit.
  - (h) Department for Facilities and Support Services.
  - (i) Department of Revenue.
  - (j) Commonwealth Office of Technology.
  - (k) State Property and Buildings Commission.
  - (l) Office of Equal Employment Opportunity and Contract Compliance.
  - (m) Kentucky Employees Retirement Systems.
  - (n) Commonwealth Credit Union.
  - (o) State Investment Commission.
  - (p) Kentucky Housing Corporation.
  - (q) Kentucky Local Correctional Facilities Construction Authority.

- (r) Kentucky Turnpike Authority.
  - (s) Historic Properties Advisory Commission.
  - (t) Kentucky Tobacco Settlement Trust Corporation.
  - (u) Kentucky Higher Education Assistance Authority.
  - (v) Kentucky River Authority.
  - (w) Kentucky Teachers' Retirement System Board of Trustees.
  - (x) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
- (a) Kentucky Department of Tourism.
    - 1. Division of Tourism Services.
    - 2. Division of Marketing and Administration.
    - 3. Division of Communications and Promotions.
  - (b) Kentucky Department of Parks.
    - 1. Division of Information Technology.
    - 2. Division of Human Resources.
    - 3. Division of Financial Operations.
    - 4. Division of Facilities Management.
    - 5. Division of Facilities Maintenance.
    - 6. Division of Customer Services.
    - 7. Division of Recreation.
    - 8. Division of Golf Courses.
    - 9. Division of Food Services.
    - 10. Division of Rangers.
    - 11. Division of Resort Parks.
    - 12. Division of Recreational Parks and Historic Sites.
  - (c) Department of Fish and Wildlife Resources.
    - 1. Division of Law Enforcement.
    - 2. Division of Administrative Services.
    - 3. Division of Engineering, Infrastructure, and Technology.
    - 4. Division of Fisheries.
    - 5. Division of Information and Education.
    - 6. Division of Wildlife.
    - 7. Division of Marketing.
  - (d) Kentucky Horse Park.
    - 1. Division of Support Services.
    - 2. Division of Buildings and Grounds.
    - 3. Division of Operational Services.
  - (e) Kentucky State Fair Board.
    - 1. Office of Administrative and Information Technology Services.



2. Office of Human Resources and Access Control.
  3. Division of Expositions.
  4. Division of Kentucky Exposition Center Operations.
  5. Division of Kentucky International Convention Center.
  6. Division of Public Relations and Media.
  7. Division of Venue Services.
  8. Division of Personnel Management and Staff Development.
  9. Division of Sales.
  10. Division of Security and Traffic Control.
  11. Division of Information Technology.
  12. Division of the Louisville Arena.
  13. Division of Fiscal and Contract Management.
  14. Division of Access Control.
- (f) Office of the Secretary.
1. Office of Finance.
  2. Office of Government Relations and Administration.
  3. Office of Film and Tourism Development.
  4. Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.
- (n) Kentucky Foundation for the Arts.
- (o) Kentucky Humanities Council.
- (p) Kentucky Heritage Council.
- (q) Kentucky Arts Council.
- (r) Kentucky Historical Society.
1. Division of Museums.
  2. Division of Oral History and Educational Outreach.
  3. Division of Research and Publications.
  4. Division of Administration.
- (s) Kentucky Center for the Arts.
1. Division of Governor's School for the Arts.
- (t) Kentucky Artisans Center at Berea.
- (u) Northern Kentucky Convention Center.

- (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
  - (a) Office of the Secretary.
  - (b) Department of Human Resources Administration.
  - (c) Office of Employee Relations.
  - (d) Kentucky Public Employees Deferred Compensation Authority.
  - (e) Office of Administrative Services.
  - (f) Office of Legal Services.
  - (g) Governmental Services Center.
  - (h) Department of Employee Insurance.
  - (i) Office of Diversity, Equality, and Training.
  - (j) Office of Public Affairs.
- III. Other departments headed by appointed officers:
  - (1) Council on Postsecondary Education.
  - (2) Department of Military Affairs.
  - (3) Department for Local Government.
  - (4) Kentucky Commission on Human Rights.
  - (5) Kentucky Commission on Women.
  - (6) Department of Veterans' Affairs.
  - (7) Kentucky Commission on Military Affairs.
  - (8) Office of Minority Empowerment.
  - (9) Governor's Council on Wellness and Physical Activity.
  - (10) Kentucky Communications Network Authority.

➔Section 2. KRS 12.252 is amended to read as follows:

  - (1) There is established within the Public Protection Cabinet a Department of Financial Institutions, a Department of Insurance, a Department of Housing, Buildings and Construction, a Department of Charitable Gaming, a Department of Professional Licensing, and a Department of Alcoholic Beverage Control. Each department shall be headed by a commissioner appointed by the Governor as required by KRS 12.040 and, where appropriate, by KRS 238.510, 241.015, and 304.2-020. Commissioners shall be directly responsible to the secretary and shall perform the functions, powers, and duties provided by law and prescribed by the secretary.
  - (2) The secretary of the Public Protection Cabinet shall be appointed by the Governor in accordance with KRS 12.255. The Office of the Secretary shall contain the following entities:
    - (a) The Office of Communications and Public Outreach, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;~~and~~
    - (b) The Office of Legal Services, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050 and 12.210; **and**
    - (c) ***The Office of Administrative Hearings, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050 and 12.210.***
  - (3) There is established within the Public Protection Cabinet the Kentucky Claims Commission pursuant to KRS 49.010.
  - (4) The Kentucky Horse Racing Commission is attached to the Public Protection Cabinet for administrative purposes only, except as provided in KRS 131.330.

- (5) There is established within the Public Protection Cabinet the Kentucky Boxing and Wrestling Commission, which shall be headed by an executive director appointed by the secretary with the approval of the Governor as required by KRS 12.050. The executive director shall be directly responsible to the secretary and shall perform the functions, powers, and duties provided by law and prescribed by the secretary.

➔Section 3. KRS 171.420 is amended to read as follows:

- (1) The State *Libraries*, Archives, and Records Commission is hereby created and shall be a seventeen (17) member body constituted as follows:
- (a) The state librarian or his *or her* designee, who shall be the *chairperson*~~{chairman}~~ of the commission;
  - (b) The secretary of the Education and Workforce Development Cabinet or his *or her* designee, *who shall serve as vice chairperson*;
  - (c) The Auditor of Public Accounts or his *or her* designee;
  - (d) The *state law librarian*~~{Chief Justice of the Supreme Court}~~ or his *or her* designee;
  - (e) The director of the Legislative Research Commission or his *or her* designee;
  - (f) The Attorney General or his *or her* designee;
  - (g) The *executive* director of the *Kentucky Military Heritage Commission or a designee of the commission*~~{Office for Policy and Management in the Office of the Controller or his designee}~~;
  - (h) The executive director of the Commonwealth Office of Technology or~~{her or}~~ his *or her* designee;
  - (i) *The president of the Kentucky Association of School Librarians or his or her designee*~~{One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the University of Kentucky}~~;
  - (j) *The executive director*~~{One (1) member appointed by the Governor from a list of three (3) persons submitted by the president}~~ of the Kentucky Historical Society *or his or her designee*;
  - (k) *The executive director*~~{One (1) member appointed by the Governor from a list of three (3) persons submitted by the president}~~ of the Kentucky Library Association *or his or her designee*;
  - (l) *The president of the Council on Postsecondary Education or his or her designee*~~{One (1) member appointed by the Governor from a list of seven (7) persons with one (1) name submitted by each of the presidents of the state universities and colleges}~~;
  - (m) Four (4) citizens at large *appointed by the Governor, including one (1) member representing library users with disabilities, one (1) member representing disadvantaged persons, and two (2) members representing library users*; and
  - (n) One (1) member, *who shall not be an elected official*, appointed by the Governor from a list of three (3) persons, with one (1) name submitted by each of the presidents of the Kentucky League of Cities, the Kentucky Association of Counties, and the Kentucky Association of School Administrators.
- (2) Vacancies *for appointed members* shall be filled by the Governor in the same manner as initial appointments are made. All *appointed* members shall serve for a term of *three (3)*~~{four (4)}~~ years, *except when making the appointments under subsection (3) of this section, two (2)*~~{provided that one (1) of the initial appointments}~~ shall be for a term of~~{four (4) years, one (1) for}~~ three (3) years, *two (2)*~~{one (1)}~~ for two (2) years, and one (1) for one (1) year.
- (3) *On the effective date of this Act, all terms of gubernatorial appointees made prior to the effective date of this Act shall expire, and the Governor shall appoint five (5) members to the commission in accordance with paragraphs (m) and (n) of subsection (1) of this section.*
- (4) The commission shall *be the state advisory council on libraries and shall* advise the Department for Libraries and Archives on matters relating to *federal and state library development issues*, archives and records management, *federal and state funding, public library standards, and other federal and state library service issues*. The commission shall have the authority to review and approve schedules for retention and destruction of records submitted by state and local agencies. In all cases, the commission shall determine questions which relate to destruction of public records, and their decision shall be binding on the parties concerned and final,

except that the commission may reconsider or modify its actions upon the agreement of a simple majority of the membership present and voting.

➔Section 4. KRS 61.810 is amended to read as follows:

- (1) All meetings of a quorum of the members of any public agency at which any public business is discussed or at which any action is taken by the agency, shall be public meetings, open to the public at all times, except for the following:
  - (a) Deliberations for decisions of the Kentucky Parole Board;
  - (b) Deliberations on the future acquisition or sale of real property by a public agency, but only when publicity would be likely to affect the value of a specific piece of property to be acquired for public use or sold by a public agency;
  - (c) Discussions of proposed or pending litigation against or on behalf of the public agency;
  - (d) Grand and petit jury sessions;
  - (e) Collective bargaining negotiations between public employers and their employees or their representatives;
  - (f) Discussions or hearings which might lead to the appointment, discipline, or dismissal of an individual employee, member, or student without restricting that employee's, member's, or student's right to a public hearing if requested. This exception shall not be interpreted to permit discussion of general personnel matters in secret;
  - (g) Discussions between a public agency and a representative of a business entity and discussions concerning a specific proposal, if open discussions would jeopardize the siting, retention, expansion, or upgrading of the business;
  - (h) State and local cabinet meetings and executive cabinet meetings;
  - (i) Committees of the General Assembly other than standing committees;
  - (j) Deliberations of judicial or quasi-judicial bodies regarding individual adjudications or appointments, at which neither the person involved, his representatives, nor any other individual not a member of the agency's governing body or staff is present, but not including any meetings of planning commissions, zoning commissions, or boards of adjustment;
  - (k) Meetings which federal or state law specifically require to be conducted in privacy;
  - (l) Meetings which the Constitution provides shall be held in secret;~~and~~
  - (m) That portion of a meeting devoted to a discussion of a specific public record exempted from disclosure under KRS 61.878(1)(m). However, that portion of any public agency meeting shall not be closed to a member of the Kentucky General Assembly; **and**
  - (n) ***Meetings of any selection committee, evaluation committee, or other similar group established under KRS Chapter 45A or 56 to select a successful bidder for award of a state contract.***
- (2) Any series of less than quorum meetings, where the members attending one (1) or more of the meetings collectively constitute at least a quorum of the members of the public agency and where the meetings are held for the purpose of avoiding the requirements of subsection (1) of this section, shall be subject to the requirements of subsection (1) of this section. Nothing in this subsection shall be construed to prohibit discussions between individual members where the purpose of the discussions is to educate the members on specific issues.

➔Section 5. KRS 61.878 is amended to read as follows:

- (1) The following public records are excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction, except that no court shall authorize the inspection by any party of any materials pertaining to civil litigation beyond that which is provided by the Rules of Civil Procedure governing pretrial discovery:
  - (a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy;

- (b) Records confidentially disclosed to an agency and compiled and maintained for scientific research. This exemption shall not, however, apply to records the disclosure or publication of which is directed by another statute;
- (c)
  - 1. Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records;
  - 2. Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which are compiled and maintained:
    - a. In conjunction with an application for or the administration of a loan or grant;
    - b. In conjunction with an application for or the administration of assessments, incentives, inducements, and tax credits as described in KRS Chapter 154;
    - c. In conjunction with the regulation of commercial enterprise, including mineral exploration records, unpatented, secret commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person; or
    - d. For the grant or review of a license to do business.
  - 3. The exemptions provided for in subparagraphs 1. and 2. of this paragraph shall not apply to records the disclosure or publication of which is directed by another statute;
- (d) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the Commonwealth. This exemption shall not include those records pertaining to application to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in paragraph (c) of this subsection;
- (e) Public records which are developed by an agency in conjunction with the regulation or supervision of financial institutions, including but not limited to, banks, savings and loan associations, and credit unions, which disclose the agency's internal examining or audit criteria and related analytical methods;
- (f) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made by or for a public agency relative to acquisition of property, until such time as all of the property has been acquired. The law of eminent domain shall not be affected by this provision;
- (g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination before the exam is given or if it is to be given again;
- (h) Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations if the disclosure of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action or administrative adjudication. Unless exempted by other provisions of KRS 61.870 to 61.884, public records exempted under this provision shall be open after enforcement action is completed or a decision is made to take no action; however, records or information compiled and maintained by county attorneys or Commonwealth's attorneys pertaining to criminal investigations or criminal litigation shall be exempted from the provisions of KRS 61.870 to 61.884 and shall remain exempted after enforcement action, including litigation, is completed or a decision is made to take no action. The exemptions provided by this subsection shall not be used by the custodian of the records to delay or impede the exercise of rights granted by KRS 61.870 to 61.884;
- (i) Preliminary drafts, notes, correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency;
- (j) Preliminary recommendations, and preliminary memoranda in which opinions are expressed or policies formulated or recommended;

- (k) All public records or information the disclosure of which is prohibited by federal law or regulation;
- (l) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly;
- (m)
  1. Public records the disclosure of which would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act and limited to:
    - a. Criticality lists resulting from consequence assessments;
    - b. Vulnerability assessments;
    - c. Antiterrorism protective measures and plans;
    - d. Counterterrorism measures and plans;
    - e. Security and response needs assessments;
    - f. Infrastructure records that expose a vulnerability referred to in this subparagraph through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to information technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems;
    - g. The following records when their disclosure will expose a vulnerability referred to in this subparagraph: detailed drawings, schematics, maps, or specifications of structural elements, floor plans, and operating, utility, or security systems of any building or facility owned, occupied, leased, or maintained by a public agency; and
    - h. Records when their disclosure will expose a vulnerability referred to in this subparagraph and that describe the exact physical location of hazardous chemical, radiological, or biological materials.
  2. As used in this paragraph, "terrorist act" means a criminal act intended to:
    - a. Intimidate or coerce a public agency or all or part of the civilian population;
    - b. Disrupt a system identified in subparagraph 1.f. of this paragraph; or
    - c. Cause massive destruction to a building or facility owned, occupied, leased, or maintained by a public agency.
  3. On the same day that a public agency denies a request to inspect a public record for a reason identified in this paragraph, that public agency shall forward a copy of the written denial of the request, referred to in KRS 61.880(1), to the executive director of the Kentucky Office of Homeland Security and the Attorney General.
  4. Nothing in this paragraph shall affect the obligations of a public agency with respect to disclosure and availability of public records under state environmental, health, and safety programs.
  5. The exemption established in this paragraph shall not apply when a member of the Kentucky General Assembly seeks to inspect a public record identified in this paragraph under the Open Records Law;~~and~~
- (n) Public or private records, including books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, having historic, literary, artistic, or commemorative value accepted by the archivist of a public university, museum, or government depository from a donor or depositor other than a public agency. This exemption shall apply to the extent that nondisclosure is requested in writing by the donor or depositor of such records, but shall not apply to records the disclosure or publication of which is mandated by another statute or by federal law;
- (o) ***Records of a procurement process under KRS Chapter 45A or 56. This exemption shall not apply after:***
  1. ***A contract is awarded; or***

**2. *The procurement process is canceled without award of a contract and there is a determination that the contract will not be resolicited; and***

***(p) Communications of a purely personal nature unrelated to any governmental function.***

- (2) No exemption in this section shall be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable person.
- (3) No exemption in this section shall be construed to deny, abridge, or impede the right of a public agency employee, including university employees, an applicant for employment, or an eligible on a register to inspect and to copy any record including preliminary and other supporting documentation that relates to him. The records shall include, but not be limited to, work plans, job performance, demotions, evaluations, promotions, compensation, classification, reallocation, transfers, lay-offs, disciplinary actions, examination scores, and preliminary and other supporting documentation. A public agency employee, including university employees, applicant, or eligible shall not have the right to inspect or to copy any examination or any documents relating to ongoing criminal or administrative investigations by an agency.
- (4) If any public record contains material which is not excepted under this section, the public agency shall separate the excepted and make the nonexcepted material available for examination.
- (5) The provisions of this section shall in no way prohibit or limit the exchange of public records or the sharing of information between public agencies when the exchange is serving a legitimate governmental need or is necessary in the performance of a legitimate government function.

➔Section 6. KRS 56.8169 is amended to read as follows:

- (1) In conducting the built-to-suit process, the commissioner of the Department for Facilities Management, after consultation with the agency or agencies for whose use the space is sought, shall arrive at a request for proposals.
- (2) The request for proposals shall indicate the relative importance of evaluation factors.
- (3) A request for proposals may be amended at any time prior to the deadline for the submission of proposals.
- (4) In soliciting the interest of firms to carry out a built-to-suit, the department shall comply with the procedures established in this subsection.
  - (a) The department shall provide adequate public notice of a request for proposals and notice of the materials that the department will provide to a firm to assist that firm in responding to a request for proposals. Those materials shall include, but not be limited to, the request for proposals and the proposal evaluation sheet to be used by the selection committee. The notice shall also set a time and date for a written response to the notice.
  - (b) The Department for Facilities Management may use any means available to notify firms that a notice has been given.
- (5) To respond to a notice, a firm, or its representative, shall respond on or before the time and date designated in the notice. The response shall be in a form determined by the department and shall provide the firm's name and address.
- (6) All written responses submitted on or before the time and date designated shall be opened or downloaded at the same time, publicly read or posted, and kept on file by the department. A firm which fails to meet the deadline shall be barred from the procurement process.
- (7) The department shall transmit to all firms that responded in time a request for proposals.
- (8) After the request for proposals have been transmitted, but before written proposals are submitted, the commissioner, and his staff, may hold any meetings, discussions, or negotiations that they deem appropriate with the firms.
- (9)
  - (a) The commissioner shall invite each firm to submit a written proposal, on a form created by the department, on or before the time and date set forth in the invitation. A form shall be provided to each firm.
  - (b) A firm that does not submit a written proposal, on a form created by this department, on or before the deadline shall be barred from the procurement process.

- (c) Employees of the department and the members of the selection committee shall keep the written proposals confidential until the lease is awarded.
- (10) The commissioner shall designate a department employee to determine which firms have filed, in a timely fashion, both a response to the public notice and a written proposal on a form created by the department. The designated employee shall create a list of the firms which have done so and certify the list.
- (11) The department shall organize the selection committee's first meeting. At that meeting, the selection committee shall:
  - (a) Elect from its members a chairman and a vice chairman who shall hold their positions for the duration of the selection process;
  - (b) Be provided with:
    - 1. The certified list of firms;
    - 2. The firms' written proposals submitted in response to a request for proposals;
    - 3. The request for proposals;
    - 4. The notice of request for proposals;
    - 5. The proposal evaluation sheets; and
    - 6. A notice from the commissioner informing the committee that the selection process is governed by KRS 56.800 to 56.823 and 56.990; and
  - (c) Discuss the future conduct of its affairs.
- (12) The selection committee shall meet ~~in executive session~~ to:
  - (a) Evaluate the materials with which it has been provided;
  - (b) Select, but not rank, the three (3) most qualified firms, based upon the evaluation factors set forth in the request for proposals; and
  - (c) Notify the department of the three (3) finalists.
- (13) The department shall notify each firm which responded to the request for proposals, informing the firm of:
  - (a) The three (3) finalists; and
  - (b) The rest of the procedure that will be followed in the awarding of the built-to-suit lease.
- (14) The selection committee shall interview the three (3) finalists, preferably on the same day. The finalists shall be interviewed one (1) at a time, and each interview shall be attended only by representatives of the finalist and members of the selection committee. Members of the selection committee shall keep confidential the substance of an interview.
- (15) The selection committee shall meet ~~in executive session~~ to:
  - (a) Rank the three (3) finalists based on the weighted evaluation factors in the request for proposals; and
  - (b) Forward the ranking to the department.
- (16) (a) The commissioner shall:
  - 1. Award the built-to-suit lease to the top ranked finalist; or
  - 2. Request best-and-final offers.
  - (b) The commissioner shall request best-and-final offers only of the three (3) finalists. The commissioner's written request shall include his reason for requesting best-and-final offers, and shall state a time and date by which all best-and-final offers will have to be received. A firm that does not submit a best-and-final offer by the deadline shall not be awarded the built-to-suit lease.
  - (c) Employees of the department and the members of the selection committee shall keep the best-and-final offers confidential until the lease is awarded.
  - (d) The selection committee shall meet ~~in executive session~~ to assess all the materials with which it was provided pursuant to subsection (11)(b) of this section, as well as the request for best-and-final offers and best-and-final offers. The committee shall rank the best-and-final offers of the three (3) finalists



based on the weighted evaluation factors in the request for proposals. If the committee determines that the top ranked best-and-final offer is adequate, the committee shall forward the name of the firm that submitted the top ranked best-and-final offer to the department. If the committee determines that the top ranked firm's best-and-final offer is inadequate, the process shall end.

- (e) The commissioner shall award the built-to-suit lease to the firm chosen by the selection committee.
- (17) After the best firm has been selected, the department shall notify the finalists, informing them of:
  - (a) Which firm has been selected for the proposed lease; and
  - (b) The rest of the procedure that will be followed in the awarding of the lease.

(18) *Section 5 of this Act shall govern the procurement process set out in this section.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

*Jackson Hall at Kentucky State University is designated the Kentucky Museum of African American History.*

➔Section 8. The Alumni House at Kentucky State University is named and designated the Francis Marion Wood Welcome Center and Alumni House.

➔Section 9. The following KRS section is repealed:

173.810 State Advisory Council on Libraries.

➔Section 10. All terms of members of the Kentucky State Advisory Council appointed under KRS 173.810 shall expire on the effective date of this Act.

➔Section 11. The General Assembly confirms Executive Order 2017-325, dated May 30, 2017, which establishes the Public Protection Cabinet, Office of Administrative Hearings and the Public Protection Cabinet, Office of Legal Services, Professional Licensing Division, to the extent it is not otherwise confirmed by this Act.

➔Section 12. The General Assembly hereby directs the Interim Joint Committee on State Government to study the issue of personal devices in the Open Records Act during the 2018 interim.

**Signed by Governor April 26, 2018.**