

CHAPTER 90

(SB 5)

AN ACT relating to special purpose governmental entities.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

- (1) *This section applies to any ad valorem tax or fee levied by a special purpose governmental entity that is not otherwise required by statute or ordinance to be adopted or approved through an official act of an establishing entity.*
- (2) *This section does not apply to:*
 - (a) *An air board established or operating under KRS 183.132 to 183.160;*
 - (b) *A fire protection district established or operating under KRS Chapter 75; or*
 - (c) *An ambulance taxing district established or operating under KRS 108.090 to 108.180.*
- (3) *As used in this section, "compensating tax rate" has the same meaning as in KRS 132.010 and applies to all special purpose governmental entities with the authority to levy ad valorem taxes, regardless of whether the special purpose governmental entity is subject to Section 2 of this Act or any other provision of the Kentucky Revised Statutes that requires advertisement or allows for voter recall.*
- (4) (a) *Notwithstanding any other provision of the Kentucky Revised Statutes, any special purpose governmental entity, other than the special purpose governmental entities described in subsection (2) of this section, proposing to levy:*
 1. *An ad valorem tax rate for the upcoming year that is projected to generate more revenue than would be generated by the levy of the compensating tax rate; or*
 2. *An ad valorem tax for the first time;*

shall submit in writing the proposed rate to the establishing entity. If the establishing entity includes more than one (1) city or county, or if there is no establishing entity, the rate shall be submitted to the governing body of the city or county in which the largest number of citizens served by the special purpose governmental entity reside. If the special purpose governmental entity serves only the residents of a city, the notice shall be provided to the governing body of that city. The rate shall be submitted no later than seven (7) days after the adoption of the ordinance, order, resolution, or motion to levy a tax rate that exceeds the compensating tax rate, or to levy a new ad valorem tax.
- (b) *The governing body of the city or county to which the rate was submitted shall have thirty (30) days from the date of submission to:*
 1. *Approve or fail to act on the proposed rate, in which case the proposed rate may be implemented by the special purpose governmental entity after all other statutory requirements for levying the rate are met;*
 2.
 - a. *Approve a rate that is less than the proposed rate but greater than the compensating tax rate when the special purpose governmental entity is proposing the levy of a rate that is projected to generate more revenue than would be generated by the levy of the compensating tax rate; or*
 - b. *Approve a rate that is less than the proposed rate when the special purpose governmental entity is proposing the levy of an ad valorem tax for the first time.*

If the governing body approves a rate under subdivision a. or b. of this subparagraph, the approved amount of the rate may be implemented by the special purpose governmental entity after all other statutory requirements for levying the rate are met; or
 3. *Disapprove the entire proposed rate by a majority vote of the governing body, in which case subdivisions a. and b. of this subparagraph shall apply:*

- a. *If the special purpose governmental entity levied an ad valorem tax during the current year, the special purpose governmental entity may levy a rate for the upcoming year that does not exceed the compensating tax rate; and*
 - b. *If the special purpose governmental entity is proposing an initial levy, the levy shall not be imposed, and the special purpose governmental entity shall wait at least one (1) year before proposing another ad valorem tax levy.*
 - (c) *Upon request of a special purpose governmental entity, the DLG shall calculate rates on behalf of the special purpose governmental entity.*
- (5) (a) *Notwithstanding any other provision of the Kentucky Revised Statutes, any special purpose governmental entity, other than the special purpose governmental entities described in subsection (2) of this section, proposing the imposition of a new fee, or a fee which is expected to produce increased revenue as compared to revenue generated during the prior fiscal year, and that is not subject to an approval process for the proposed fee under another provision of the Kentucky Revised Statutes or administrative regulations promulgated pursuant thereto, shall submit the proposed fee to the establishing entity. If the establishing entity includes more than one (1) city or county, or if there is no establishing entity, the fee shall be submitted to the governing body of the city or county in which the largest number of citizens served by the special purpose governmental entity reside, except as provided in subsection (6) of this section. If the special purpose governmental entity serves only the residents of a city, the notice shall be provided to the governing body of that city. The proposed fee shall be submitted to the relevant city or county no later than forty-five (45) days prior to the scheduled implementation of the fee.*
 - (b) *The governing body of the city or county shall have thirty (30) days from the date of submission to:*
 - 1. *Approve or fail to act on the proposed fee, in which case the proposed fee may be implemented by the special purpose governmental entity after all other statutory requirements for levying the fee are met;*
 - 2. *Approve a fee in an amount less than the amount of the proposed fee, in which case the approved fee amount may be implemented by the special purpose governmental entity after all other statutory requirements for levying the fee are met; or*
 - 3. *Disapprove the entire proposed fee by a majority vote of the governing body, in which case subdivisions a. and b. of this subparagraph shall apply:*
 - a. *If a proposed increase of an existing fee is disapproved, any fee then in existence shall remain unchanged, and the special purpose governmental entity shall not seek to increase the fee again for at least one (1) year from the date of the submission of the disapproved fee increase; and*
 - b. *If a proposed initial fee is disapproved, the special purpose governmental entity shall not seek to impose the fee again for at least one (1) year from the date of the submission of the disapproved initial fee.*
- (6) *The requirements established by subsection (5) of this section shall not apply to the following provisions of this subsection:*
 - (a) *Rental fees;*
 - (b) *Fees established by contractual arrangement;*
 - (c) *Admission fees;*
 - (d) *Fees or charges to recover costs incurred by a special purpose governmental entity for the connection, restoration, relocation, or discontinuation of any service requested by any person;*
 - (e) *Any penalty, interest, sanction, or other fee or charge imposed by a special purpose governmental entity for a failure to pay a charge or fee, or for the violation or breach of or failure to pay or perform as agreed pursuant to a contractual agreement or as reflected in a published schedule;*
 - (f) *Amounts charged to customers or contractual partners for nonessential services provided on a voluntary basis;*

- (g) *Fees or charges authorized under federal law that pursuant to federal law may not be regulated by the Commonwealth or local governments within the Commonwealth;*
 - (h) *Purchased water or sewage treatment adjustments, as authorized by KRS 278.015, made by a special purpose governmental entity as a direct result of a rate increase by its wholesale water supplier or wholesale sewage treatment provider;*
 - (i) *Any new fee or fee increase for which a special purpose governmental entity must obtain prior approval from the Public Service Commission pursuant to KRS Chapter 278;*
 - (j) *Other charges or fees imposed by a special purpose governmental entity for the provision of any service that is also available on the open market; or*
 - (k) *Fees or charges imposed by municipal utilities for the provision of power, water, wastewater, natural gas, or telecommunications services, unless submission is otherwise required by statute or an ordinance adopted by the establishing entity.*
- (7) (a) *Subsections (4) and (5) of this section shall not be interpreted as transferring any tax-levying or fee-levying authority granted to a special purpose governmental entity under any other provision of the Kentucky Revised Statutes to cities and counties charged with reviewing tax and fee increases under this section.*
 - (b) *This section shall not be interpreted to grant tax-levying or fee-levying authority on behalf of special purpose governmental entities to any city or county reviewing tax rates or fees proposed by a special purpose governmental entity and subject to review under this section.*
- (8) *This section shall apply independently of and in addition to any other statutory requirements and provisions relating to the levy of ad valorem taxes or fees by special purpose governmental entities, other than the special purpose governmental entities described in subsection (2) of this section, including statutory rate limits, public hearing requirements, and recall provisions, and shall not be interpreted to circumvent, supplant, or otherwise replace those requirements and provisions.*
 - (9) *The provisions of this section shall not be interpreted as limiting the ability of any city, county, or other establishing entity to impose reporting or submission requirements that are more stringent than those established in this section.*

➔Section 2. KRS 132.023 is amended to read as follows:

- (1) No special purpose governmental entity shall levy a tax rate which exceeds the compensating tax rate until the taxing district has complied with the provisions of **Section 1 of this Act and** subsection (2) of this section.
- (2) (a) A special purpose governmental entity proposing to levy a tax rate which exceeds the compensating tax rate shall **submit the proposed rate as required by Section 1 of this Act and shall** hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the same location where the governing body of the city or county where the largest number of citizens served by the special purpose governmental entity reside meets, and shall be held immediately before a regularly scheduled meeting of that governing body.
- (b) The special purpose governmental entity shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:
 1. The tax rate levied in the preceding year, and the revenue produced by that rate;
 2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;
 3. The compensating tax rate and the revenue expected from it;
 4. The revenue expected from new property and personal property;
 5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;
 6. A time and place for the public hearing which shall be held not less than seven (7) days, nor more than ten (10) days, after the day that the second advertisement is published;
 7. The purpose of the hearing; and

8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained therein.
- (c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property in the special purpose governmental entity, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.
- (d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The special purpose governmental entity may set reasonable time limits for testimony.
- (3) (a) That portion of a tax rate levied by an action of a special purpose governmental entity which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate shall be subject to a recall vote or reconsideration by the special purpose governmental entity, as provided for in KRS 132.017, and shall be advertised as provided in paragraph (b) of this subsection.
- (b) The special purpose governmental entity shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a tax rate which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:
1. The fact that the taxing district has adopted a rate;
 2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate is subject to recall; and
 3. The name, address, and telephone number of the county clerk of the county in which the special purpose governmental entity is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

➔Section 3. KRS 132.025 is amended to read as follows:

- (1) In the event that the tax rate levied by an action of a taxing district, other than the state, counties, school districts, cities, and urban-county governments, for 1979-80, 1980-81, or 1981-82 produced a percentage increase in revenue from personal property less than the percentage increase in revenue from real property for the respective year, the taxing district, other than the state, counties, school districts, cities, and urban-county governments, may levy a tax rate applicable to personal property for 1982-83 only, which will produce the same cumulative percentage increase in revenue from personal property as was produced from real property in 1979-80, 1980-81 and 1981-82. Such a tax rate may be in addition to the tax rate levied under the provisions of KRS 132.024.
- (2) The tax rate levied under the provision of KRS 132.024 and subsection (1) of this section shall not exceed the tax rate applicable to personal property levied by the respective taxing district, other than the state, counties, school districts, cities, and urban-county governments, in 1981-82.
- (3) The tax rate applicable to personal property levied by a taxing district, other than the state, counties, school districts, cities, and urban-county governments shall not be subject to the public hearing provisions of KRS 132.023(2)~~(3)~~ and to the recall provisions of KRS 132.023(3)~~(4)~~.

➔Section 4. The following KRS section is repealed:

65A.100 Fees and ad valorem taxes levied by special purpose governmental entities -- Reporting to governing body of city or county -- Reporting exceptions.

➔Section 5. This Act takes effect January 1, 2021.

Vetoed March 27, 2020. Veto overridden and became law April 14, 2020.