

**CHAPTER 144****( HB 331 )**

AN ACT relating to removal of local school board members.

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

➔Section 1. KRS 156.132 is amended to read as follows:

As used in this section, except subsection (1), "public school officer" means a person who previously served as a superintendent of schools ~~or board member~~ during which time charges were brought against him under this section.

- (1) The chief state school officer shall recommend, by written charges to the proper school authorities having immediate jurisdiction, the removal of any superintendent of schools, principal, teacher, member of a school council, or other public school officer as to whom he has reason to believe is guilty of immorality, misconduct in office, incompetency, willful neglect of duty, or nonfeasance. In the case of a member of a school council, the written charges shall be provided to the local board of education.
- (2) The chief state school officer shall recommend by written charges the suspension by the Kentucky Board of Education of any ~~district board member,~~ superintendent of schools~~,~~ or other public school officer whom he has reason to believe is guilty of immorality, misconduct in office, incompetency, willful neglect of duty, or nonfeasance. If the charges brought under this subsection represent an immediate threat to the public health, safety, or welfare, the Kentucky Board of Education shall summarily suspend the person against whom the charges are made. The action by the Kentucky Board of Education may be taken upon a recommendation of the chief state school officer, or the action may be taken by a majority vote of the Kentucky Board of Education without recommendation from the chief state school officer.
- (3) The Kentucky Board of Education may suspend a district superintendent of schools or other public school officer under subsection (2) of this section or remove him pursuant to subsection (5) of this section only if, after thirty (30) days of receipt of the written charges specified in subsection (1) of this section, the proper school authorities having immediate jurisdiction, either the superintendent or the district board of education, have refused to act, have acted in bad faith, arbitrarily, or capriciously, or if a recommendation to the district board would have been futile.
- (4) Any officer suspended by the Kentucky Board of Education under subsection (2) of this section shall be furnished with an emergency order specifying in detail the reasons for suspension and notifying the officer of his right to appeal the action and have an emergency hearing pursuant to KRS 13B.125.
- (5) As an alternative to first seeking suspension, the chief state school officer may recommend by written charges the removal by the Kentucky Board of Education of any ~~district board member,~~ superintendent of schools~~,~~ or other public school officer whom he has reason to believe is guilty of immorality, misconduct in office, incompetency, willful neglect of duty, or nonfeasance. The officer against whom the written charges are issued by the chief state school officer shall be furnished with the written charges and notice of procedural rights conferred under KRS Chapter 13B. Within twenty (20) days after receipt of the charges, the officer may notify the Kentucky Board of Education of his intention to appear and answer the charges. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B. If the officer fails to notify the board of his intention to appear and answer the charges, the Kentucky Board of Education may remove the officer by a majority vote, and the dismissal shall be final.
- (6) The hearing shall be public or private at the discretion of the accused former or current superintendent and shall be public when testimony is taken for board members.
- (7) The Kentucky Board of Education may meet in closed session to consider the evidence and may by a majority vote remove the officer. If the board votes to remove the officer, the board shall prepare final order specifying which charge or charges it found to be the basis for removal. If within ninety (90) days from the date of suspension if applicable, the state board has not removed the officer, or has dismissed the charges, the suspended officer shall be reinstated and shall be paid his full salary for the period of suspension.
- (8) The officer shall have a right to appeal on the record to the Circuit Court located in the county of the school district in accordance with KRS Chapter 13B. If the decision of the court is against removal, the officer shall be paid his full salary from the date of suspension. The payment shall be made from funds appropriated to the State Department of Education.

- (9) If a superintendent of schools is removed from office or resigns while charges are pending pursuant to this section after July 15, 1994, any continuing contract pursuant to KRS 161.720 to 161.810 shall be terminated. If the removal is reversed upon appeal, the continuing contract shall be restored and he shall be paid his full salary for the period of suspension.

➔Section 2. KRS 156.136 is amended to read as follows:

The Kentucky Board of Education, upon suspension of any officer ~~or district board of education member~~ under KRS 156.132, shall name a person to fill the vacancy caused by such suspension. Persons appointed by the Kentucky Board of Education to fill vacancies under KRS 156.132 and this section shall hold office only during the time an officer is suspended, not to exceed ninety (90) days from the date of suspension. At the expiration of such period, vacancies shall be filled in the manner provided by law for the office. Persons appointed by the Kentucky Board of Education to fill vacancies caused by suspension shall be paid from funds of the district board of education. Any person employed to fill the position of a superintendent who has been removed by the Kentucky Board of Education under KRS 156.132 shall be employed by the district board of education for periods not to exceed one (1) year if the superintendent has appealed to the courts and if the courts have not taken final action.

➔Section 3. KRS 158.785 is amended to read as follows:

- (1) The Kentucky Board of Education shall establish a program to improve specific aspects of the management of local school districts as described in KRS 158.780.
- (2) The State Department of Education shall, pursuant to administrative regulations promulgated by the Kentucky Board of Education, collect and review data relative to the instructional and operational performance of local school districts. When a review of the data or of any other information, including site investigations of local management practices, indicates the presence of critically ineffective or inefficient management, the chief state school officer shall order a management audit of the governance and administration of the district. A local school board or superintendent may also request a management audit of the district.
- (3) If a management audit, conducted for any of the reasons set forth in subsection (2) of this section, indicates that there is a pattern of a significant lack of efficiency and effectiveness in the governance or administration of a school district, the chief state school officer shall recommend the district to the Kentucky Board of Education either as a "state assisted district" or a "state managed district."
- (4) The Kentucky Board of Education shall promulgate an administrative regulation establishing a procedure for considering the recommendation of the chief state school officer to declare a district a "state assisted district" or a "state managed district." This procedure shall fully comply with the procedures for administrative hearings established in KRS Chapter 13B.
- (5) When the chief state school officer presents a recommendation to the state board for designation as a "state assisted district" or a "state managed district," he shall establish the following:
  - (a) Existence of a pattern of a significant lack of efficiency and effectiveness in the governance or administration of the school district;
  - (b) The pattern of a significant lack of efficiency and effectiveness in the governance or administration of the school district continues to exist; and
  - (c) State assistance or state management is necessary to correct the inefficiencies and ineffectiveness.
- (6) When a district is designated a "state assisted district" under subsection (4) of this section, the following actions shall be required of the chief state school officer:
  - (a) Management assistance shall be provided to the district to develop and implement a plan to correct deficiencies found in the management audit.
  - (b) The Department of Education shall monitor the development and implementation of the correctional plan to improve the governance or administration of the school district. If the chief state school officer determines that the plan is being inadequately developed or implemented, he shall make a recommendation to the Kentucky Board of Education to declare the district a "state managed district."
- (7) If the state board designates a district a "state managed district" under subsection (4) of this section, the following actions shall be required of the chief state school officer:
  - (a) All administrative, operational, financial, personnel, and instructional aspects of the management of the school district formerly exercised by the local school board and the superintendent shall be exercised by the chief state school officer or his designee.

- (b) ~~The~~ Any local school board member or the local superintendent may be removed from office by the Kentucky Board of Education pursuant to KRS 156.132.
- (c) Notwithstanding any statute to the contrary, after thirty (30) days after a district becomes a "state managed district" any appointment to an administrative position may be revoked by the chief state school officer and the individual employee may be reassigned to any duty for which that person is qualified. The chief state school officer shall provide to the reassigned employee written reasons for the reassignment. The individual shall not be dismissed from subsequent employment except as provided by KRS 156.132 and 161.790.
- (d) The chief state school officer shall make the administrative appointments as necessary to exercise full and complete control of all aspects of the management of the district. The chief state school officer, through the appointments, may make any and all decisions previously made by the local school board and the local superintendent. The chief state school officer shall retain clear supervisory and monitoring powers over the operation and management of the district.
- (8) A school district shall be designated as a "state managed district" until the Kentucky Board of Education determines that the pattern of ineffective and inefficient governance or administration and the specific deficiencies determined by the management audit have been corrected. Each year following the school year in which the designation of a "state managed district" was made, the chief state school officer shall report the status of the corrective action being taken to the Kentucky Board of Education. No local school district shall remain in the status of a "state managed district" longer than three (3) consecutive school years unless the Kentucky Board of Education extends the time after a complete review of a new management audit. Any judicial review of actions taken by the chief state school officer or the board under KRS 158.780 or this section shall be in accordance with the provisions for conducting judicial review of administrative hearings outlined in KRS Chapter 13B.

➔Section 4. KRS 160.345 is amended to read as follows:

- (1) For the purpose of this section:
- (a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;
- (b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal and is not a program or part of another school. The term "school" does not include district-operated schools that are:
1. Exclusively vocational-technical, special education, or preschool programs;
  2. Instructional programs operated in institutions or schools outside of the district; or
  3. Alternative schools designed to provide services to at-risk populations with unique needs;
- (c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state, with the exception of principals and assistant principals; and
- (d) "Parent" means:
1. A parent, stepparent, or foster parent of a student; or
  2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.
- (2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include but not be limited to a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision-making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:
- (a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent

representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;

- (b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal shall be the chair of the school council.
- 2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:
  - a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and
  - b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;
- (c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.
- 2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection;
- (d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;
- (e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;
- (f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;
- (g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;
- (h) Personnel decisions at the school level shall be as follows:

1. From a list of qualified applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with paragraph (i)11. of this subsection. The superintendent shall provide additional applicants to the principal upon request when qualified applicants are available. The superintendent may forward to the school council the names of qualified applicants who have pending certification from the Education Professional Standards Board based on recent completion of preparation requirements, out-of-state preparation, or alternative routes to certification pursuant to KRS 161.028 and 161.048. Requests for transfer shall conform to any employer-employee bargained contract which is in effect;
2.
  - a.
    - i. If the vacancy to be filled is the position of principal, the outgoing principal shall not serve on the council during the principal selection process. The superintendent or the superintendent's designee shall serve as the chair of the council for the purpose of the hiring process and shall have voting rights during the selection process.
    - ii. Except as provided in subdivision b. of this subparagraph, the council shall have access to the applications of all persons certified for the position. The principal shall be elected on a majority vote of the membership of the council. The school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training;
  - b. An alternative principal selection process may be used by the school council as follows:
    - i. Prior to a meeting called to select a principal, all school council members shall receive informational materials regarding Kentucky open records and open meetings laws and sign a nondisclosure agreement forbidding the sharing of information shared and discussions held in the closed session;
    - ii. The superintendent shall convene the school council and move into closed session as provided in KRS 61.810(1)(f) to confidentially recommend a candidate;
    - iii. The council shall have the option to interview the recommended candidate while in closed session; and
    - iv. After any discussion, at the conclusion of the closed session, the council shall decide, in a public meeting by majority vote of the membership of the council, whether to accept or reject the recommended principal candidate;
  - c. If the recommended candidate is selected, and the recommended candidate accepts the offer, the name of the candidate shall be made public during the next meeting in open session;
  - d.
    - i. If the recommended candidate is not accepted by the school council under subdivision b. of this subparagraph, then the process set forth in subdivision a. of this subparagraph shall apply.
    - ii. The confidentially recommended candidate's name and the discussions of the closed session shall remain confidential under KRS 61.810(1)(f), and any documents used or generated during the closed meeting shall not be subject to an open records request as provided in KRS 61.878(1)(i) and (j).
    - iii. A recommended candidate who believes a violation of this subdivision has occurred may file a written complaint with the Kentucky Board of Education.
    - iv. A school council member who is found to have disclosed confidential information regarding the proceeding of the closed session shall be subject to removal from the school council by the Kentucky Board of Education under subsection (9)(e) of this section;
3. No principal who has been previously removed from a position in the district for cause may be considered for appointment as principal in that district;
4. Personnel decisions made at the school level under the authority of subparagraphs 1. and 2. of this paragraph shall be binding on the superintendent who completes the hiring process;

## ACTS OF THE GENERAL ASSEMBLY

5. Applicants subsequently employed shall provide evidence that they are certified prior to assuming the duties of a position in accordance with KRS 161.020;
  6. Notwithstanding other provisions of this paragraph, if the applicant is the spouse of the superintendent and the applicant meets the service requirements of KRS 160.380(3)(a), the applicant shall only be employed upon the recommendation of the principal and the approval of a majority vote of the school council; and
  7. Beginning June 27, 2019, notwithstanding the requirement that a principal be elected on a majority vote of the council in subparagraph 2. of this paragraph, if the school council is in a county school district in a county with a consolidated local government adopted under KRS Chapter 67C, then the selection of a principal shall be subject to approval by the superintendent. If the superintendent does not approve the principal selected by the council, then the superintendent may select the principal;
- (i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:
1. Determination of curriculum, including needs assessment, curriculum development and responsibilities under KRS 158.6453(19);
  2. Assignment of all instructional and noninstructional staff time;
  3. Assignment of students to classes and programs within the school;
  4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
  5. Determination of use of school space during the school day related to improving classroom teaching and learning;
  6. Planning and resolution of issues regarding instructional practices;
  7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
  8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;
  9. Adoption of an emergency plan as required in KRS 158.162;
  10. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and
  11. Procedures to assist the council with consultation in the selection of personnel by the principal, including but not limited to meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation; and
- (j) Each school council shall annually review data as shown on state and local student assessments required under KRS 158.6453. The data shall include but not be limited to information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council, with the involvement of parents, faculty, and staff, shall develop and adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b) by April 1 of each year and submit the plan to the superintendent and local board of education for review as described in KRS 160.340. The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than October 1 of each year. If a school does not have a council, the review shall be completed by the principal with the involvement of parents, faculty, and staff.
- (3) The policies adopted by the local board to implement school-based decision making shall also address the following:

- (a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;
  - (b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;
  - (c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;
  - (d) Professional development plans developed pursuant to KRS 156.095;
  - (e) Parent, citizen, and community participation including the relationship of the council with other groups;
  - (f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;
  - (g) Requirements for waiver of district policies;
  - (h) Requirements for record keeping by the school council; and
  - (i) A process for appealing a decision made by a school council.
- (4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.
  - (5) All schools shall implement school-based decision making in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.
  - (6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. Experienced members may participate in the training for new members to fulfill their training requirement. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education. By November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.
  - (7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making, including but not limited to a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.
  - (8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council.

Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development in compliance with requirements specified in KRS 156.095, except as provided in KRS 158.649. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

- (9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.
- (b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.
- (c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.
- (d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent ~~or~~ a member of a school council, ~~or school board member~~ from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.
- (e) Notwithstanding paragraph (d) of this subsection and KRS 7.410(2)(c), if the state board determines a violation of the confidentiality requirements set forth in subsection (2)(h)2. of this section by a school council member has occurred, the state board shall remove the member from the school council, and the member shall be permanently prohibited from serving on any school council in the district.
- (10) Notwithstanding subsections (1) to (9) of this section, a school's right to establish or maintain a school-based decision making council and the powers, duties, and authority granted to a school council may be rescinded or the school council's role may be advisory if the commissioner of education or the Kentucky Board of Education takes action under KRS 160.346.
- (11) Each school council of a school containing grades K-5 or any combination thereof, or if there is no school council, the principal, shall develop and implement a wellness policy that includes moderate to vigorous physical activity each day and encourages healthy choices among students. The policy may permit physical activity to be considered part of the instructional day, not to exceed thirty (30) minutes per day, or one hundred and fifty (150) minutes per week. Each school council, or if there is no school council, the principal, shall adopt an assessment tool to determine each child's level of physical activity on an annual basis. The council or principal may utilize an existing assessment program. The Kentucky Department of Education shall make available a list of available resources to carry out the provisions of this subsection. The department shall report to the Legislative Research Commission no later than November 1 of each year on how the schools are providing physical activity under this subsection and on the types of physical activity being provided. The policy developed by the school council or principal shall comply with provisions required by federal law, state law, or local board policy.
- (12) Discretionary authority exercised under subsection (2)(h)2.b. of this section shall not violate provisions of any employer-employee bargained contract existing between the district and its employees.

➔Section 5. KRS 160.470 is amended to read as follows:

- (1) (a) Notwithstanding any statutory provisions to the contrary, no district board of education shall levy a general tax rate which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced by application of the general tax rate that could have been levied in the preceding year to the preceding year's assessment, except as provided in subsections (9) and (10) of this section and KRS 157.440.
- (b) If an election is held as provided for in KRS 132.017 and the question should fail, such failure shall not reduce the "...general tax rate that could have been levied in the preceding year..." referred to in subsection (1)(a) of this section, for purposes of computing the general tax rate for succeeding years.



In the event of a merger of school districts, the limitations contained in this section shall be based upon the combined revenue of the merging districts, as computed under the provisions of this section.

- (2) No district board of education shall levy a general tax rate within the limits imposed in subsection (1) of this section which respectively exceeds the compensating tax rate defined in KRS 132.010, except as provided in subsections (9) and (10) of this section, KRS 157.440, and KRS 157.621, until the district board of education has complied with the provisions of subsection (7) of this section.
- (3) Upon receipt of property assessments from the Department of Revenue, the commissioner of education shall certify the following to each district board of education:
  - (a) The general tax rate that a district board of education could levy under the provisions of subsection (1) of this section, and the amount of revenue expected to be produced;
  - (b) The compensating tax rate as defined in KRS 132.010 for a district's general tax rate the amount of revenue expected to be produced;
  - (c) The general tax rate which will produce, respectively, no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, and the amount of revenue expected to be produced.
- (4) Upon completion of action on property assessment data, the Department of Revenue shall submit certified property assessment data as required in KRS 133.125 to the chief state school officer.
- (5) Within thirty (30) days after the district board of education has received its assessment data, the rates levied shall be forwarded to the Kentucky Board of Education for its approval or disapproval. The failure of the district board of education to furnish the rates within the time prescribed shall not invalidate any levy made thereafter.
- (6)
  - (a) Each district board of education shall, on or before January 31 of each calendar year, formally and publicly examine detailed line item estimated revenues and proposed expenditures for the subsequent fiscal year. On or before May 30 of each calendar year, each district board of education shall adopt a tentative working budget which shall include a minimum reserve of two percent (2%) of the total budget.
  - (b) Each district board of education shall submit to the Kentucky Board of Education no later than September 30, a close estimate or working budget which shall conform to the administrative regulations prescribed by the Kentucky Board of Education.
- (7)
  - (a) Except as provided in subsections (9) and (10) of this section and KRS 157.440, a district board of education proposing to levy a general tax rate within the limits of subsection (1) of this section which exceed the compensating tax rate defined in KRS 132.010 shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.
  - (b) The district board of education shall advertise the hearing by causing the following to be published at least twice for 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:
    1. The general tax rate levied in the preceding year, and the revenue produced by that rate;
    2. The general tax rate for the current year, and the revenue expected to be produced by that rate;
    3. The compensating general 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 herein.
- (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, 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 district board of education may set reasonable time limits for testimony.
- (8) (a) That portion of a general tax rate, except as provided in subsections (9) and (10) of this section, KRS 157.440, and KRS 157.621, levied by an action of a district board of education which will produce, respectively, 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 defined in KRS 132.010, shall be subject to a recall vote or reconsideration by the district board of education as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.
- (b) The district board of education shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a general tax rate, except as provided in subsections (9) and (10) of this section and KRS 157.440, which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause the following to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches:
1. The fact that the district board of education has adopted such a rate;
  2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and
  3. The name, address, and telephone number of the county clerk of the county or urban-county in which the school district 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.
- (9) (a) Notwithstanding any statutory provisions to the contrary, effective for school years beginning after June 30, 1990, the board of education of each school district shall levy a minimum equivalent tax rate of thirty cents (\$0.30) for general school purposes. Equivalent tax rate is defined as the rate which results when the income collected during the prior year from all taxes levied by the district for school purposes is divided by the total assessed value of property plus the assessment for motor vehicles certified by the Department of Revenue. School districts collecting school taxes authorized by KRS 160.593 to 160.597, 160.601 to 160.633, or 160.635 to 160.648 for less than twelve (12) months during a school year shall have included in income collected under this section the pro rata tax collection for twelve (12) months.
- (b) ***Failure of a board***~~If a board fails~~ to comply with paragraph (a) of this subsection ***may constitute a forfeiture of office by***~~its members shall be subject to removal from office for willful neglect of duty~~ pursuant to KRS ***415.050 and 415.060***~~156.132~~.
- (10) A district board of education may levy a general tax rate that will produce revenue from real property, exclusive of revenue from new property, that is four percent (4%) over the amount of the revenue produced by the compensating tax rate as defined in KRS 132.010.

➔Section 6. KRS 160.1592 is amended to read as follows:

- (1) A public charter school shall be part of the state's system of public education but shall be exempt from all statutes and administrative regulations applicable to the state board, a local school district, or a school, except the public charter school shall adhere to the same health, safety, civil rights, and disability rights requirements as are applied to all public schools and to all requirements otherwise identified in KRS 160.1590 to 160.1599 and 161.141.
- (2) A public charter school may elect to comply with any one (1) or more provisions of any state statute or administrative regulation.
- (3) A public charter school shall:

- (a) Be governed by a board of directors;
- (b) Be established and operate in pursuit of a specific set of educational objectives as defined in the charter contract between the school's board of directors and its authorizer;
- (c) Ensure students meet compulsory attendance requirements under KRS 158.030 and 158.100;
- (d) Hire only qualified teachers to provide student instruction;
- (e) Ensure high school course offerings meet or exceed the minimum required under KRS 156.160 for high school graduation;
- (f) Design its education programs to meet or exceed the student performance standards adopted by the Kentucky Board of Education;
- (g) Ensure students' participation in required state assessment of student performance, as required under KRS 158.6453;
- (h) Adhere to all generally accepted accounting principles and adhere to the same financial audits, audit procedures, and audit requirements as are applied to other public schools under KRS 156.265;
- (i) Utilize the same system for reporting student information data and financial data as is utilized by other school districts across the state;
- (j) Require criminal background checks for staff and volunteers, including members of its governing board, as required of all public school employees and volunteers within the public schools specified in KRS 160.380 and 161.148;
- (k) Comply with open records and open meeting requirements under KRS Chapter 61;
- (l) Comply with purchasing requirements and limitations under KRS Chapter 45A and KRS 156.074 and 156.480, or provide to the public charter school board of directors a detailed monthly report of school purchases over ten thousand dollars (\$10,000), including but not limited to curriculum, furniture, and technology;
- (m) Provide instructional time that is at least equivalent to the student instructional year specified in KRS 158.070;
- (n) Provide data to the Kentucky Department of Education and the authorizer as required by the Kentucky Department of Education or authorizer to generate a school report card under KRS 158.6453;
- (o) Operate under the oversight of its authorizer in accordance with its charter contract and application;
- (p) As a public body corporate, have all the powers necessary for carrying out the terms of its charter contract, including the power to:
  - 1. Receive and disburse funds for school purposes;
  - 2. Secure appropriate insurance and enter into contracts and leases;
  - 3. Contract with an education service provider, provided the board of directors of the public charter school retains oversight and authority over the school;
  - 4. Incur debt in reasonable anticipation of the receipt of public or private funds;
  - 5. Pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit;
  - 6. Solicit and accept any gifts or grants for school purposes, subject to applicable laws and the terms of its charter;
  - 7. Acquire real property for use as its facility or facilities, from public or private sources; and
  - 8. Employ or contract with other entities for the provision of teaching, professional, and support staff, as needed; and
- (q) Conduct an admissions lottery if capacity is insufficient to enroll all students who wish to attend the school and ensure that every student has a fair opportunity to be considered in the lottery and that the lottery is competently conducted, equitable, randomized, transparent, impartial, and in accordance with targeted student population and service community as identified in KRS 160.1593(3) so that students are accepted in a public charter school without regard to ethnicity, national origin, religion, sex, income level, disabling condition, proficiency in the English language, or academic or athletic ability.

- (4) For purposes of this subsection, a member of the board of directors of a public charter school shall be considered ~~as a board member under KRS 156.132 and~~ an officer under KRS 61.040 and shall be removed from office under the *statute's* provisions ~~of those statutes~~.
- (5) A local school district shall provide or publicize to parents and the general public information about public charter schools authorized by the local school district as an enrollment option within the district to the same extent and through the same means that the school district provides and publicizes information about noncharter public schools in the district.
- (6) A local school district shall not assign or require any student enrolled in the local school district to attend a public charter school.
- (7) (a) For purposes of ensuring compliance with this section and the charter under which it operates, a public charter school shall be administered by a public charter school board of directors accountable to the authorizer in a manner agreed to in the charter contract, as negotiated between the public charter school applicant and the authorizer.
- (b) The board of directors of a public charter school shall consist of a minimum of two (2) parents of students attending any public charter school operating under the direction of the board of directors.
- (c) A member of the board of directors of a public charter school shall:
1. Not be an employee of that school or of an education service provider that provides services to the school; and
  2. File full disclosure reports and identify any potential conflicts of interest, relationships with management organizations, and relationships with family members who are applying to or are employed by the public charter school or have other business dealings with the school, the management organization of the school, or any other public charter school and shall make these documents available online through the authorizer.
- (8) Collectively, members of the board of directors shall possess expertise in leadership, curriculum and instruction, law, and finance.
- (9) (a) A board of directors may hold one (1) or more charter contracts.
- (b) Each public charter school under contract with a board of directors shall be separate and distinct from any other public charter school under contract with the board of directors.
- (10) The board of directors shall be responsible for the operation of its public charter school, including but not limited to preparation of a budget, contracting for services, school curriculum, and personnel matters.
- (11) The board of directors shall:
- (a) Ensure that all meetings of the board are publicized in advance according to the rules governing the authorizer and are open to the public at times convenient to parents; and
- (b) Require any education service provider contracted with the board to provide a monthly detailed budget to the board.
- (12) (a) A public charter school may negotiate and contract with its authorizer or any third party for the use, operation, and maintenance of a building and grounds, liability insurance, and the provision of any service, activity, or undertaking that the public charter school is required to perform in order to carry out the educational program described in its charter. Any services for which a public charter school contracts with a school district shall be provided by the district at cost and shall be negotiated as a separate agreement after final charter contract negotiations. The public charter school shall have standing to sue and be sued in its own name for the enforcement of any contract under color of authority granted by KRS 160.1590 to 160.1599. A public charter school may own, rent, or lease its space.
- (b) Any entity contracted to provide educational services or goods to a public charter school in an amount exceeding ten thousand dollars (\$10,000) shall be subject to the Open Records Act under KRS Chapter 61 for all records associated with the public charter school contract.
- (13) A public charter school shall be exempt from administrative regulations governing public schools for purposes of zoning and local land use regulation. The Finance and Administration Cabinet shall annually publish a list of vacant and unused buildings and vacant and unused portions of buildings that are owned by the state and

that may be suitable for the operation of a public charter school and shall provide the list to applicants for public charter schools and to existing public charter schools upon request.

- (14) A public charter school shall be nonsectarian in its programs, admissions policies, employment practices, partnerships, and all other operations and shall not have entrance requirements or charge tuition or fees, except that a public charter school may require the payment of fees on the same basis and to the same extent as other public schools.
- (15) A public charter school shall not discriminate against any student, employee, or any other person on the basis of ethnicity, religion, national origin, sex, disability, special needs, athletic ability, academic ability, or any other ground that would be unlawful if done by a public school.
- (16) A public charter school shall serve one (1) or more of grades kindergarten through twelve (12) and shall limit admission to students within the grade levels served.
- (17) A public charter school shall provide programs and services to a student with a disability in accordance with the student's individualized education program and all federal and state laws, rules, and regulations. A public charter school shall deliver the services directly or contract with another provider to deliver the services. A public charter school shall establish an admissions and release committee at the school and the committee shall:
  - (a) Develop an individualized education program for each student with a disability; or
  - (b) Review, revise, or utilize a student's individualized education program completed by the admissions and release committee of the student's former school. If needed, the committee shall work collaboratively with staff from the student's former school to review and revise a student's existing individualized education program.
- (18)
  - (a) A public charter school shall be eligible to participate in state-sponsored or district-sponsored interscholastic athletics, academic programs, competitions, awards, scholarships, and recognition programs for students, educators, administrators, and schools to the same extent as noncharter public schools. Participants shall comply with eligibility requirements of students enrolled in noncharter public schools.
  - (b) A public charter school has no obligation to provide extracurricular activities or access to facilities for students enrolled in the public charter school.
  - (c) If a public charter school sponsors interscholastic athletic activities, students enrolled in the public charter school shall be considered eligible to participate in interscholastic competitions by the Kentucky Board of Education or the agency designated by the state board to manage interscholastic athletics, if other eligibility requirements are met. A student enrolled in a public charter school that sponsors an interscholastic athletic activity shall be ineligible to participate in that activity at any other school.
  - (d) If a public charter school does not offer any interscholastic athletic activity sanctioned by the Kentucky Board of Education or the agency designated by the state board to manage interscholastic athletics, a student enrolled in the public charter school shall be eligible to participate at the school the student would attend based on the student's residence.
  - (e) If a public charter school offers any interscholastic athletic activity sanctioned by the Kentucky Board of Education or the agency designated by the state board to manage interscholastic athletics, a student enrolled in the public charter school shall be ineligible to participate in any interscholastic athletic activity at any other school.
- (19) Nothing in this section shall be construed to prevent the establishment of a single-sex public charter school consistent with federal regulations or a public charter school designed to provide expanded learning opportunities for students at risk of academic failure or for students with special needs.
- (20) The authorizer of a public charter school shall semiannually consider for approval a public charter school's proposed amendments to a charter contract. The authorizer may consider requests for amendments more frequently upon mutual agreement between the authorizer and the public charter school. The denial of an amendment request is appealable pursuant to KRS 160.1595.
- (21) If a student who was previously enrolled in a public charter school enrolls in another public school located within the state, the new school shall accept any credits earned and grades received by the student in courses or instructional programs while enrolled in the public charter school in a uniform and consistent manner and according to the same criteria that are used to accept credits from other public schools.

- (22) A teacher employed by a local board of education under a continuing service contract and offered employment with a public charter school shall be granted a two (2) year leave of absence to teach in a public charter school. The leave of absence shall commence on the first day of service to the public charter school. During the first or second year of the leave of absence, the teacher may notify the local board of education that the teacher intends to return to a teaching position in the local school district. The teacher shall be allowed to return to a teaching position in the local school district at the appropriate salary for the teacher's years of experience and educational level. After two (2) years on leave, the relationship between the teacher and the local board of education shall be determined by the local board and the local board shall notify the teacher of the decision.

**Became law without Governor's signature March 29, 2021.**