

CHAPTER 185**(HB 678)**

AN ACT relating to public schools and declaring an emergency.

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

→Section 1. Until June 30, 2024, a local board of education of a district may provide for and commence the funding, financing, design, construction, renovation, or modification of the district's facilities in accordance with the provisions and restrictions established in statute and administrative regulation notwithstanding the requirements for prior approval for the district's plans and specifications from the chief state school officer under KRS 162.060, for the use of the district's capital outlay funds for projects from the commissioner of education under KRS 157.420, and for the district's transactions by the Kentucky Department of Education under KRS 160.160(3) and (4), and notwithstanding any administrative regulation that requires any of those entities to provide prior approval for the funding, financing, design, construction, renovation, or modification of school facilities. A local board that elects to conduct its projects under this section shall adopt a resolution by majority vote and submit the resolution to the Kentucky Department of Education as notice. Such a local board shall still submit BG-1 Project Application forms as appropriate to the Kentucky Department of Education for recordkeeping and data collection. The provisions of KRS 160.160(5) shall remain in full effect and shall be applicable to leases and bonds authorized by a local board without the prior approval of department. Notwithstanding the provisions of KRS 160.160(2) to the contrary, a local board under this section may use the estimates of architects or engineers who prepared the plans or specifications as an alternative to the receipt of advertised, public, and competitive bids for the project to estimate the cost of the project in advance of financing.

→Section 2. Until June 30, 2024, notwithstanding 702 KAR 4:180, 702 KAR 4:050, and 702 KAR 4:090, or any other similar administrative regulation to the contrary, a local board of education that submits a request for approval of a complete district facility plan, a request for acquisition of property, or a request for disposal of surplus property shall submit the request to the commissioner of education or designee who shall approve or disapprove the request within 30 business days. An approved request shall be reported to the Kentucky Board of Education. A denied request may be appealed to the board.

→Section 3. Until June 30, 2024, the Kentucky Department of Education shall provide assistance and guidance to local boards upon request regarding facilities funding, financing, design, construction, renovation, and modification, district facilities plans, and the acquisition and disposal of property.

→Section 4. Sections 1 through 3 of this Act shall also be applicable to submissions and requests that have been made by local boards prior to the effective date of this Act, but have not yet received approval from the appropriate board or official.

→Section 5. The facilities in Sections 1 through 3 of this Act may include extracurricular facilities which may be in any priority in a district facility plan notwithstanding 702 KAR 4:180 or any statute or other administrative regulation to the contrary.

→Section 6. Nothing in this Act shall be deemed to waive prior approval for the use of federal Elementary and Secondary School Emergency Relief Fund moneys or other funds that federal law requires approval from state officials prior to use.

→Section 7. By June 30, 2023, the Kentucky Department of Education shall conduct a review of the administrative regulations, incorporated materials, design manuals, and other guidance the department provides to districts concerning the construction, renovation, and modification of school facilities to identify inefficiencies in the review and approval process. During the review, the department shall also identify updates needed to the administrative regulations and materials due to the changing trends in facilities design, the construction industry, and the economy. This shall include identifying the most commonly granted waivers from administrative regulation and the changes required to reduce or eliminate the need for those waivers. The department shall also review the procedures implemented in the department for conducting the reviews and approvals outlined in Section 1 of this Act and develop a plan to reduce delays and increase efficiency through policy changes. The Kentucky Department of Education and the Department of Housing, Buildings and Construction shall discuss which elements of Kentucky Board of Education administrative regulations may be appropriate to incorporate into the administrative regulations of the Department of Housing, Buildings and Construction and the feasibility of enforcement of the administrative regulations. By September 1, 2023, the Kentucky Department of Education shall submit the results of the reviews,

plans, and consultations required by this subsection in a report to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Education. The report may include suggested changes in statute for the General Assembly to consider during the 2024 Regular Session.

➔Section 8. Due to the growing financial loss to school districts from the increasing cost of construction and approval delays, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 8, 2022.