

CHAPTER 221

(SB 167)

AN ACT relating to library district boards.

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

➔Section 1. KRS 173.480 is amended to read as follows:

- (1) Upon the creation of a district, the fiscal court of each county in the district shall at once notify the Department for Libraries and Archives of the establishment of the district and shall forward to the department a copy of the petition required pursuant to KRS 173.470. The Department for Libraries and Archives shall then recommend to the county judge/executive of each county in the district the names of suitable persons from among the signers of the petition to be appointed to the board. The Department for Libraries and Archives in recommending persons to the county judge/executive for appointment to the board shall recommend twice as many persons for each county as the county is entitled to have members appointed, and the county judge/executive shall immediately, with the approval of the fiscal court, make the selection from those recommended ***unless the fiscal court has adopted an alternative appointment process through the passage of a resolution. For fiscal courts that adopt an alternative appointment process, the county judge/executive:***
- (a) 1. ***May immediately, with the approval of the fiscal court, make the selection from those recommended by the Department for Libraries and Archives; and***
2. ***For any appointments the county judge/executive decides not to fill from the first recommendations, shall request the Department for Libraries and Archives to submit within (30) days two (2) additional recommended persons for each unfilled appointment, and, with the approval of the fiscal court, may make the selection from those recommendations; and***
- (b) ***For any remaining unfilled appointments after the provisions of paragraph (a) of this subsection have been followed, shall appoint, with the approval of the fiscal court, individuals of his or her choosing, whether or not the individuals signed the petition, no later than thirty (30) days after the day the county judge/executive received the recommendations under paragraph (a)2. of this subsection and made no appointment therefrom. The county judge/executive shall notify the Department for Libraries and Archives of the name of any individual appointed in the manner set out in this paragraph.***
- (2) Where the district consists of one (1) county, the county judge/executive shall appoint five (5) persons from that county as members.
- (3) ***Where the district consists of more than one (1) county,*** the Department for Libraries and Archives shall prescribe by regulation the number of board members~~[- when the district consists of more than one (1) county]~~, provided that the board shall consist of:
- (a) Not less than one (1) nor more than four (4) members from each county, each county having such number of members as the proportion of its population bears to the total population in the district;~~[-]~~ and
- (b) ~~[- that the total membership of the board consists of -]~~Not less than five (5) members.
- (4) Where a county joins an already established district:
- (a) ~~[-]~~The Department for Libraries and Archives shall, from among the signers of the petition, recommend to the county judge/executive of each county included in the new district for the first time twice as many persons for appointment to the board as the county is entitled to have appointed, and the county judge/executive shall select the members for the county from this list ***unless the fiscal court has adopted an alternative appointment process through the passage of a resolution. For fiscal courts that adopt an alternative appointment process, the county judge/executive:***
1. a. ***May select the members for the county from those recommended by the Department for Libraries and Archives; and***
- b. ***For any appointments the county judge/executive decides not to fill from the first recommendations, shall request the Department for Libraries and Archives to submit***

within (30) days two (2) additional recommended persons for each unfilled appointment, and, with the approval of the fiscal court, may make the selection from those recommendations; and

2. *For any remaining unfilled appointments after the provisions of subparagraph 1. of this paragraph have been followed, shall appoint, with the approval of the fiscal court, individuals of his or her choosing, whether or not the individuals signed the petition, no later than thirty (30) days after the day the county judge/executive received the recommendations under subparagraph 1.b. of this paragraph and made no appointment therefrom. The county judge/executive shall notify the Department for Libraries and Archives of the name of any individual appointed in the manner set out in this subparagraph; and*~~[-]~~

- (b) The terms of the members of the counties composing the previously existing district shall expire immediately upon the organization of the new board and such vacancies shall be filled as provided in KRS 173.490.

➔Section 2. KRS 173.490 is amended to read as follows:

- (1) (a) One-third (1/3) of the persons first appointed to the board shall serve for a term of two (2) years, one-third (1/3) for a term of three (3) years and one-third (1/3) for a term of four (4) years. Where the board consists of a number of members not divisible by three (3), one-third (1/3) of the next higher number divisible by three (3), shall serve for a term of two (2) years, one-third (1/3) for a term of three (3) years and the remaining number shall serve for a term of four (4) years. Thereafter, as their terms expire, ***the board shall make recommendations on*** their successors, ***who shall be appointed as set out in paragraph (b) of this subsection***~~[-recommended by the board]~~.
- (b) The board shall recommend two (2) persons committed to the provision of library services to the Department for Libraries and Archives, for each vacancy. The names shall be forwarded to the Department for Libraries and Archives and the state librarian and commissioner shall recommend those names to the county judge/executive. The county judge/executive shall immediately, with the approval of the fiscal court, make ~~the~~~~his~~ selection from those recommended ***unless the fiscal court has adopted an alternative appointment process through the passage of a resolution. For fiscal courts that adopt an alternative appointment process, the county judge/executive:***
1. a. *May immediately, with the approval of the fiscal court, make the selection from those recommended by the state librarian and commissioner; and*
 - b. *For any appointments the county judge/executive decides not to fill from the first recommendations, shall request the Department for Libraries and Archives to submit within (30) days two (2) additional recommended persons for each unfilled appointment, and, with the approval of the fiscal court, may make the selection from those recommendations; and*
 2. *For any remaining unfilled appointments after the provisions of subparagraph 1. of this paragraph have been followed, shall appoint, with the approval of the fiscal court, individuals of his or her choosing no later than thirty (30) days after the day the county judge/executive received the recommendations under subparagraph 1.b. of this paragraph and made no appointment therefrom. The county judge/executive shall notify the Department for Libraries and Archives of the name of any individual appointed in the manner set out in this subparagraph.*
- (c) Board members thus appointed shall serve a term of four (4) years each. Trustees may serve for two (2) consecutive terms after which they shall not succeed themselves. They may be reappointed no earlier than twelve (12) months following the end of their last service. The members shall hold office until their respective successors are appointed and qualified. After absence of a trustee from four (4) regular monthly meetings of the board during any one (1) year of the trustee's term, the trustee shall be considered to have automatically resigned from the board. An advisory board may be appointed and serve as specified in the bylaws of the board of trustees.
- (2) Any vacancy occurring in the terms of office of members shall be filled for the unexpired term by the county judge/executive, with the approval of the fiscal court, by appointment on recommendation of the state librarian and commissioner of two (2) names of persons committed to the provision of library services and living in the county in which the vacancy occurred ***unless the fiscal court has adopted an alternative appointment process***

through the passage of a resolution. For fiscal courts that adopt an alternative appointment process, the county judge/executive:

- (a) *1. May immediately, with the approval of the fiscal court, make the appointment on the recommendation of the state librarian and commissioner of two (2) names of persons committed to the provision of library services and living in the county in which the vacancy occurred; and*
- 2. If the county judge/executive decides not to make the appointment from the first recommendations, shall request the Department for Libraries and Archives to submit within (30) days two (2) additional recommended persons for the unfilled appointment, and, with the approval of the fiscal court, may make the selection from those recommendations; and*
- (b) *For any remaining unfilled appointment after the provisions of paragraph (a) of this subsection have been followed, shall appoint, with the approval of the fiscal court, an individual of his or her choosing no later than thirty (30) days after the day the county judge/executive received the recommendations under paragraph (a)2. of this subsection and made no appointment therefrom. Any person appointed in accordance with this paragraph shall be committed to the provision of library services and living in the county in which the vacancy occurred. The county judge/executive shall notify the Department for Libraries and Archives of the name of any individual appointed in the manner set out in this paragraph.*

- (3) A member of the board may be removed from office as provided by KRS 65.007.

➔Section 3. KRS 173.520 is amended to read as follows:

- (1) The board shall establish, equip and maintain libraries or contract with existing libraries for the furnishing of library service for the district and do all things necessary to provide efficient library service. The board may also enter an agreement pursuant to KRS 65.210 to 65.300 for the provision of additional library service. No district shall establish a library unless the plans for the establishment, equipment, and maintenance have been approved by the Department for Libraries and Archives. No contract shall be made unless the libraries contracting to furnish service are libraries approved by the Department for Libraries and Archives for this purpose.
- (2) The district, as a body corporate, by and through the board may:
 - (a) Sue and be sued, complain and defend, purchase, or lease grounds, purchase, lease, occupy or erect appropriate buildings for the use of the district libraries and their branches, *lease or build to lease appropriate buildings for use by educational institutions*, sell and convey real and personal property for and on behalf of the district, receive gifts of real and personal property for the use and benefit of the district, the same when accepted to be held and controlled by the board according to the terms of the deed, gift, devise or bequest of such property;
 - (b) Borrow money on the credit of the board in anticipation of the revenue to be derived from taxes levied by the district for the fiscal year in which the money is borrowed, and to pledge the taxes levied for the district for the payment of the principal and interest of the loan. The principal shall not exceed fifty percent (50%) of the anticipated revenue for the fiscal year in which the money is borrowed;
 - (c) Establish bylaws it deems necessary and expedient to define the duties of officers or employees and make all necessary policies governing libraries, library service and personnel within the district.
- (3) (a) *The following requires the majority vote of the board members and approval of the fiscal court:*
 - 1. Leasing appropriate buildings for use by educational institutions;*
 - 2. Constructing appropriate buildings for use by educational institutions; and*
 - 3. The approval of expenditures for capital projects with a total cost that is equal to or greater than one million dollars (\$1,000,000). This subparagraph does not apply to awards made from the public library facilities construction fund under KRS 171.027 that were made before the effective date of this Act.*
- (b) *Buildings for use by educational institutions shall be deemed appropriate buildings for purposes of this subsection and subsection (2) of this section when the building meets the school building requirements established by the Kentucky Board of Education.*

(4) The board in exercise of its powers shall be guided by the regulations and requirements of the Department for Libraries and Archives.

(5)~~(4)~~ The powers set forth in this section shall not be construed to limit, restrict or modify any powers or authority granted by any other part of KRS 173.450 to 173.650 or any other law not in conflict with the provisions of this section.

➔Section 4. KRS 173.725 is amended to read as follows:

(1) Upon the creation of a district, the fiscal court of each county in the district shall at once notify the Department for Libraries and Archives of the establishment of the district and shall forward to the department a copy of the petition required pursuant to KRS 173.720. The Department for Libraries and Archives shall then recommend to the county judge/executive of each county in the district the names of suitable persons from among the signers of the petition to be appointed to the board. The Department for Libraries and Archives in recommending persons to the county judge/executive for appointment to the board shall recommend twice as many persons for each county as the county is entitled to have members appointed, and the county judge/executive shall, with the approval of the fiscal court, immediately make the selection from those recommended ***unless the fiscal court has adopted an alternative appointment process through the passage of a resolution. For fiscal courts that adopt an alternative appointment process, the county judge/executive:***

(a) 1. ***May immediately, with the approval of the fiscal court, make the selection from those recommended by the Department for Libraries and Archives; and***

2. ***For any appointments the county judge/executive decides not to fill from the first recommendations, shall request the Department for Libraries and Archives to submit within (30) days two (2) additional recommended persons for each unfilled appointment, and, with the approval of the fiscal court, may make the selection from those recommendations; and***

(b) ***For any remaining unfilled appointments after the provisions of paragraph (a) of this subsection have been followed, shall appoint, with the approval of the fiscal court, individuals of his or her choosing, whether or not the individuals signed the petition, no later than thirty (30) days after the day the county judge/executive received the recommendations under paragraph (a)2. of this subsection and made no appointment therefrom. The county judge/executive shall notify the Department for Libraries and Archives of the name of any individual appointed in the manner set out in this paragraph.***

(2) Where the district consists of one (1) county, the county judge/executive shall appoint five (5) persons from that county as members.

(3) ***Where the district consists of more than one (1) county,*** the Department for Libraries and Archives shall prescribe by regulation the number of board members~~[when the district consists of more than one (1) county]~~, provided that the board shall consist of:

(a) Not less than one (1) nor more than four (4) members from each county, each county having such number of members as the proportion of its population bears to the total population in the district;~~;~~ and

(b) ~~[that the total membership of the board consists of]~~Not less than five (5) members.

(4) Where a county joins an already established district:

(a) ~~;~~The Department for Libraries and Archives shall, from among the signers of the petition, recommend to the county judge/executive of each county included in the new district for the first time twice as many persons for appointment to the board as the county is entitled to have appointed, and the county judge/executive shall select the members for the county from this list ***unless the fiscal court has adopted an alternative appointment process through the passage of a resolution. For fiscal courts that adopt an alternative appointment process, the county judge/executive:***

1. a. ***May select the members for the county from those recommended by the Department for Libraries and Archives; and***

b. ***For any appointments the county judge/executive decides not to fill from the first recommendations, shall request the Department for Libraries and Archives to submit within (30) days two (2) additional recommended persons for each unfilled appointment, and, with the approval of the fiscal court, may make the selection from those recommendations; and***

2. *For any remaining unfilled appointments after the provisions of subparagraph 1. of this paragraph have been followed, shall appoint, with the approval of the fiscal court, individuals of his or her choosing, whether or not the individuals signed the petition, no later than thirty (30) days after the day the county judge/executive received the recommendations under subparagraph 1.b. of this paragraph and made no appointment therefrom. The county judge/executive shall notify the Department for Libraries and Archives of the name of any individual appointed in the manner set out in this subparagraph; and*~~[-]~~

(b) The terms of the members of the counties composing the previously existing district shall expire immediately upon the organization of the new board and such vacancies shall be filled as provided in KRS 173.730.

~~{(2) In making recommendations and appointments under subsection (1) of this section and KRS 173.730, the Department for Libraries and Archives and the county judge/executive shall attempt to assure, to the extent permitted by the county's entitlement to board members, that the board includes members from different geographical areas, and from both cities and unincorporated areas, of the county.}~~

➔Section 5. KRS 173.730 is amended to read as follows:

(1) (a) One-third (1/3) of the persons first appointed to the board shall serve for a term of two (2) years, one-third (1/3) for a term of three (3) years and one-third (1/3) for a term of four (4) years. Where the board consists of a number of members not divisible by three (3), one-third (1/3) of the next higher number divisible by three (3), shall serve for a term of two (2) years, one-third (1/3) for a term of three (3) years and the remaining number shall serve for a term of four (4) years. Thereafter, as their terms expire, *the board shall make recommendations on their successors, who shall be appointed as set out in paragraph (b) of this subsection*~~[-recommended by the board].~~

(b) The board shall recommend two (2) persons committed to the provision of library services to the Department for Libraries and Archives, for each vacancy. The state librarian and commissioner shall recommend those names to the county judge/executive. The county judge/executive shall immediately, with the approval of the fiscal court, make the selection from those recommended *unless the fiscal court has adopted an alternative appointment process through the passage of a resolution. For fiscal courts that adopt an alternative appointment process, the county judge/executive:*

1. a. *May immediately, with the approval of the fiscal court, make the selection from those recommended by the state librarian and commissioner; and*

b. *For any appointments the county judge/executive decides not to fill from the first recommendations, shall request the Department for Libraries and Archives to submit within (30) days two (2) additional recommended persons for each unfilled appointment, and, with the approval of the fiscal court, may make the selection from those recommendations; and*

2. *For any remaining unfilled appointments after the provisions of subparagraph 1. of this paragraph have been followed, shall appoint, with the approval of the fiscal court, individuals of his or her choosing no later than thirty (30) days after the day the county judge/executive received the recommendations under of subparagraph 1.b. of this paragraph and made no appointment therefrom. The county judge/executive shall notify the Department for Libraries and Archives of the name of any individual appointed in the manner set out in this subparagraph.*

(c) Board members thus appointed shall serve a term of four (4) years each. Trustees may serve for two (2) consecutive terms after which they shall not succeed themselves. They may be reappointed no earlier than twelve (12) months following the end of their last service. The members shall hold office until their respective successors are appointed and qualified. After absence of a trustee from four (4) regular monthly meetings of the board during any one (1) year of the trustee's term, the trustee shall be considered to have automatically resigned from the board. An advisory board may be appointed and serve as specified in bylaws of the board of trustees.

(2) Any vacancy occurring in the terms of office of members shall be filled for the unexpired term by the county judge/executive, with the approval of the fiscal court, by appointment on recommendation of the state librarian and commissioner of two (2) persons interested in the provision of library services and living in the county in which the vacancy occurred *unless the fiscal court has adopted an alternative appointment process through*

the passage of a resolution. For fiscal courts that adopt an alternative appointment process, the county judge/executive:

- (a)
 1. *May immediately, with the approval of the fiscal court, make the appointment on the recommendation of the state librarian and commissioner of two (2) persons interested in the provision of library services and living in the county in which the vacancy occurred; and*
 2. *If the county judge/executive decides not to make the appointment from the first recommendations, shall request the Department for Libraries and Archives to submit within (30) days two (2) additional recommended persons for the unfilled appointment, and, with the approval of the fiscal court, may make the selection from those recommendations; and*
 - (b) *For any remaining unfilled appointment after the provisions of paragraph (a) of this subsection have been followed, appoint, with the approval of the fiscal court, an individual of his or her choosing no later than thirty (30) days after the day the county judge/executive received the recommendations under paragraph (a)2. of this subsection and made no appointment therefrom. Any person appointed in accordance with this paragraph shall be committed to the provision of library services and living in the county in which the vacancy occurred. The county judge/executive shall notify the Department for Libraries and Archives of the name of any individual appointed in the manner set out in this paragraph.*
- (3) A member of the board may be removed from office as provided by KRS 65.007.

➔Section 6. KRS 173.745 is amended to read as follows:

- (1) The board shall establish, equip and maintain libraries or contract with existing libraries for the furnishing of library service for the district and do all things necessary to provide efficient library service. The board may also enter an agreement pursuant to KRS 65.210 to 65.300 for the provision of additional library services. No district shall establish a library unless the plans for the establishment, equipment and maintenance have been approved by the Department for Libraries and Archives. No contract shall be made unless the libraries contracting to furnish service are libraries approved by the Department for Libraries and Archives for this purpose.
- (2) The district, as a body corporate, by and through the board may:
 - (a) Sue and be sued, complain and defend, purchase, or lease grounds, purchase, lease, occupy or erect appropriate buildings for the use of the district libraries and their branches, ***lease or build to lease appropriate buildings for use by educational institutions***, sell and convey real and personal property for and on behalf of the district, receive gifts of real and personal property for the use and benefit of the district, the same when accepted to be held and controlled by the board according to the terms of the deed, gift, devise or bequest of such property;
 - (b) Borrow money on the credit of the board in anticipation of the revenue to be derived from taxes levied by the district for the fiscal year in which the money is borrowed, and to pledge the taxes levied for the district for the payment of the principal and interest of the loan. The principal to be repaid annually shall not exceed fifty percent (50%) of the anticipated revenue for the fiscal year in which the money is borrowed.
 - (c) Establish bylaws it deems necessary and expedient to define the duties of officers or employees and make all necessary policies governing libraries, library service and personnel within the district.
- (3) (a) ***The following requires the majority vote of the board members and approval of the fiscal court:***
 1. ***Leasing appropriate buildings for use by educational institutions;***
 2. ***Constructing appropriate buildings for use by educational institutions; and***
 3. ***The approval of expenditures for capital projects with a total cost that is equal to or greater than one million dollars (\$1,000,000). This subparagraph does not apply to awards made from the public library facilities construction fund under KRS 171.027 that were made before the effective date of this Act.***
- (b) ***Buildings for use by educational institutions shall be deemed appropriate buildings for purposes of this subsection and subsection (2) of this section when the building meets the school building requirements established by the Kentucky Board of Education.***

- (4) The board in exercise of its powers shall be guided by the regulations and requirements of the Department for Libraries and Archives.
- (5)~~(4)~~ The powers set forth in this section shall not be construed to limit, restrict or modify any powers or authority granted by KRS 173.710 to 173.800 or any other law not in conflict with the provisions of this section.

➔Section 7. This Act takes effect on January 1, 2023.

Veto Overridden and Signed by Secretary of State April 14, 2022.