

CHAPTER 99

(SB 3)

AN ACT relating to the educators' liability insurance and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

- (1) *The Educators Employment Liability Insurance Program is hereby established in the Kentucky Department of Education for the purpose of providing educators employment liability insurance to protect all certified employees of Kentucky public schools from liability for judgments or settlements that are in excess of the coverage provided in Section 2 of this Act.*
- (2) *Not later than July 1, 2024, the department shall contract with an insurance agency, broker, or company to provide excess liability coverage to the coverage required in Section 2 of this Act for an additional amount of not less than one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) aggregate for each certified employee, which shall be inclusive of legal fees. The department shall notify each certified employee that the coverage has been provided.*
- (3) *If the certified educators' association with the largest number of members in the Commonwealth provides greater, more comprehensive coverage than the amounts provided in subsection (2) of this section, then the coverage provided by the program in subsection (2) shall be at least equivalent to that amount.*
- (4) *The purchase of liability insurance under this section shall not constitute a waiver of any immunity or defense the insured may now or in the future assert under state or federal law, regulation, or rule.*
- (5) *The Kentucky Board of Education shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the insurance program under this section.*
- (6)
 - (a) *The educators employment liability insurance program fund is hereby created as a trust and agency account fund in the State Treasury to be administered by the Kentucky Department of Education for the purpose of providing educators' employment liability insurance to certified employees as described in this section.*
 - (b) *The fund shall consist of general fund appropriations, gifts and grants from public and private sources, and federal funds. All moneys included in the fund shall be appropriated for the purposes set forth in this section.*
 - (c) *Any unallotted or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9). Income earned from the investments shall be credited to the fund.*
 - (d) *Notwithstanding KRS 45.229, any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year and continuously appropriated only for the purposes specified in this section.*

➔Section 2. KRS 160.105 is amended to read as follows:

The Kentucky Board of Education shall by regulation require each school district to:

- (1) Provide for fire and extended insurance coverage on each building owned by the board which is not surplus to its needs as shown by the approved facilities plan. The requirement for such coverage shall not exceed replacement cost and shall allow for the features of coinsurance and deductibles~~};~~; **and**
- (2) *Provide each certified employee of the district with primary liability insurance coverage for an amount of not less than one million dollars (\$1,000,000) for the protection of the employee from liability arising in the course and scope of pursuing the duties of employment.*

Signed by Governor March 24, 2023.