

## CHAPTER 125

( HB 39 )

AN ACT relating to the Kentucky Horse Park.

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

➔Section 1. KRS 148.258 is amended to read as follows:

As used in KRS ~~148.258~~~~[148.260]~~ to 148.320:~~[the term]~~

- (1) "Commission" ~~means~~~~[shall mean]~~ the "Kentucky Horse Park Commission" unless the context clearly indicates otherwise;
- (2) **"Emergency" means an incident or situation which impedes the operations of the Kentucky Horse Park, or poses a major threat to the public safety of any guest, employee, or equine population of the Kentucky Horse Park; and**
- (3) **"Solely for administrative purposes" means for those limited functions and purposes expressly requested by the commission to be performed by the Tourism, Arts and Heritage Cabinet. The commission shall have sole discretion as to which functions shall be deemed necessary for the efficient operation of the Kentucky Horse Park.**

➔Section 2. KRS 148.260 is amended to read as follows:

- (1) There is hereby created and established an agency of state government to be known as the Kentucky Horse Park Commission, which shall constitute a separate administrative body of state government within the meaning of KRS 12.010(8) and under the provisions of KRS 12.015 shall be attached to the Tourism, Arts and Heritage Cabinet *solely* for administrative purposes.
- (2) The commission shall be composed of the following **eighteen (18)**~~[fifteen (15)]~~ members:
  - (a) **The secretary of the Tourism, Arts and Heritage Cabinet or designee;**
  - (b) **The secretary of the Finance and Administration Cabinet or designee;**
  - (c) **The Commissioner of Agriculture or designee;**
  - (d) **The mayor of Lexington or designee;**
  - (e) **The Scott County judge/executive or designee;**
  - (f) **The dean of the University of Kentucky College of Agriculture, Food and Environment or designee; and**
  - (g) **Twelve (12)**~~[Thirteen (13)]~~ members appointed by the Governor who possess the ability to provide broad management expertise and direction in the operation of the Kentucky Horse Park and, to the extent possible, represent the diverse interests of the Kentucky horse industry, four (4) or more of whom represent the equine industry and four (4) or more of whom are active in industry, tourism, or commerce. The members of the commission appointed under this paragraph shall serve **no more than three (3) consecutive**~~[for a term of]~~ four (4) **year terms.**~~[years, except that initial appointments shall be as follows:~~
    1. ~~Four (4) members shall serve for a term of two (2) years;~~
    2. ~~Five (5) members shall serve for a term of three (3) years; and~~
    3. ~~Four (4) members shall serve for a term of four (4) years; and]~~
- (3) **Members serving under subsection (2)(a) to (f) of this section**~~[(b) The secretary of the Cabinet for Economic Development and the secretary of the Tourism, Arts and Heritage Cabinet, who]~~ shall serve as ex officio members with full voting rights, **except as provided in subsection (4) of this section.**
- ~~(4)~~~~(3)~~ The Governor shall designate one (1) member of the commission to serve as chairperson and one (1) member of the commission to serve as vice chairperson, both of whom shall serve at the pleasure of the Governor. **The chairperson shall generally serve as a nonvoting member, but shall vote when there is a tie**

*among the other members.* The vice chairperson shall preside over meetings in the absence of the chairperson, and shall retain the right to vote unless serving in the capacity of chairperson.

- (5) *If a vacancy occurs on the commission, the unexpired term shall be filled pursuant to the requirements and procedures for the original appointment.*
- (6)~~(4)~~ The commission shall meet quarterly, and the chairperson shall preside over the meetings. The chairperson may call special meetings of the commission upon a request of the majority of the members of the commission, or upon request of the Governor.
- (7)~~(5)~~ Members shall be reimbursed only for expenses incurred in the discharge of official business, subject to regulations established by the Finance and Administration Cabinet. All expenses reimbursed to members shall be paid from operating funds of the Kentucky Horse Park.
- (8)~~(6)~~ The commission shall establish and maintain an office at the Kentucky ~~State~~ Horse Park for the transaction of its business and shall not establish any branch office. The commission may hold meetings at any other place when the convenience of the commission requires.
- (9)~~(7)~~ The commission shall be authorized to adopt bylaws providing for the call of its meetings, which shall be held at least quarterly, and for its operating procedures. A quorum of the commission shall consist of *ten* ~~(10)~~~~eight (8)~~ members, and a quorum of members present at any duly-called meeting may act upon any matter before it for consideration. Each member shall have one (1) vote.
- (10)~~(8)~~ The Governor may establish an advisory committee to advise in the administration, development, and operation of the Kentucky Horse Park or other functions, activities, and programs provided for or authorized by KRS ~~148.258~~~~148.260~~ to 148.320.

➔Section 3. KRS 148.270 is amended to read as follows:

- (1) (a) The commission shall be a body corporate with usual corporate powers.
- (b) *The General Assembly hereby recognizes and reaffirms that the operations of the Kentucky Horse Park and the operations of its facilities are unique activities for state government and that an independent corporate structure is best to enable the Kentucky Horse Park to be managed in an entrepreneurial and businesslike manner. The Kentucky Horse Park Commission shall be an independent, de jure municipal corporation and political subdivision of the Commonwealth of Kentucky, which shall be a public body corporate and politic.*
- (c) *The Kentucky Horse Park Commission is a public agency as defined in KRS 61.805 and is subject to the Open Meetings Act, KRS 61.805 to 61.850.*
- (d) *The Kentucky Horse Park Commission shall be attached to the Tourism, Arts and Heritage Cabinet solely for administrative purposes and shall not be subject to reorganization under KRS Chapter 12.*
- (2) Full minutes and records shall be kept of all meetings of the board and all official actions shall be recorded.
- (3) (a)~~(2)~~ The commission shall appoint *a president*~~an executive director~~, who shall hold *the position at the pleasure of the commission*~~office during its pleasure~~ and shall devote his *or her* entire time to the duties of *the*~~his~~ office.
- (b) The *president*~~executive director~~ shall be the chief *executive*~~administrative~~ officer and secretary of the commission and shall provide the staff direction and coordination in implementing the program and discharging the duties of the commission. The *president*~~executive director~~ shall serve as the administrative head of the Kentucky ~~State~~ Horse Park, thereby overseeing daily operations of the park.
- (c) The *president*~~secretary~~ shall keep a full and true record of all the proceedings of the commission, of all books and papers ordered filed by the commission, and of all orders made by the commission or approved and confirmed by it and ordered filed, and shall be responsible to it for the safe custody and preservation of all such documents in its office. All documents shall be subject to the open records provisions of KRS 61.870 to 61.884.
- (d) The commission shall designate from time to time staff persons to perform the duties of the *president*~~executive director~~ during his *or her* absence, and during the absence, the persons so designated shall possess the same powers as *the president*~~their principal~~.

- (4) *The president may only be removed by an affirmative vote of a majority of the members of the commission, and upon thirty (30) days' written notice.*
- (5) *The commission shall determine the term, conditions, and compensation of its president, provided the term does not exceed four (4) years. There is no limit on the number of terms an individual can serve as president.*
- (6) (a) *The president shall have the authority to organize administrative divisions and may designate chiefs of the divisions who, under the control and supervision of the president, shall have the duties of direction of the divisions.*
- (b) *The president shall organize a Division of Personnel Management and Staff Development that shall manage all personnel matters, including staff development and training programs for affirmative action. The director of this division shall be appointed by the president, and the appointment shall be subject to confirmation by the commission.*
- (c) *The president shall employ other employees and agents necessary to carry out the policies of the commission and to conduct the affairs of the Kentucky Horse Park, and shall fix the duties and compensation of any employees or agents with the approval of the commission.*
- (7) *The president and any persons newly employed under this section after July 1, 2023, shall not be subject to KRS Chapter 18A.*
- (8)~~(3)~~ The commission acting through the *president*~~executive director~~ may employ such additional staff as necessary to perform the duties and exercise the powers conferred upon it by the provisions of KRS ~~148.258~~~~148.260~~ to 148.320.

➔Section 4. KRS 148.280 is amended to read as follows:

- (1) The commission:
- (a) Shall have the authority and control of such property as now is under its custody and control, and of such property as may hereafter be placed under its control or transferred to it by the State Property and Buildings Commission, for any purpose mentioned in this section;
- (b) May erect and repair buildings on the ~~Kentucky~~~~State~~ Horse Park and make any and all necessary or proper improvements, and generally carry on a program of development and extension of facilities designed to accomplish the objectives defined in this section; **and**
- (c) Shall promote the progress of the state and stimulate public interest in the advancement and development of the state by providing the facilities of the ~~Kentucky~~~~State~~ Horse Park for exhibitionary, competitive, and other events relative to various aspects of the horse industry and other functions calculated to advance and enhance the tourist industry, economy, entertainment, cultural, and educational interests of the public.
- (2) The commission may take, acquire, and hold property, and all interest herein, by deed, gift, devise, bequest, lease, or by transfer from the state property so acquired in the manner provided by law, **and may dispose of any property so acquired in the manner provided by law.**
- (3) The commission may ~~promulgate~~~~enact by~~ administrative ~~regulations~~~~regulation as provided~~ in **accordance with** KRS Chapter 13A ~~to govern~~~~rules governing~~ the operation, maintenance, or use of property under its custody and control, **as are necessary to:**
- (a) **Maintain decency and good order;**
- (b) **Protect the peace or safety of the general public;**
- (c) **Protect the public interest, convenience, or necessity; and**
- (d) **Govern the operation, maintenance, or use of the Kentucky Horse Park.**
- (4) The commission may:
- (a) Employ or contract with other persons, firms, or corporations the commission may deem necessary or desirable to accomplish its duties and functions; may fix the compensation and the terms of employment or contract of those employed or contracted with; and may assign to them duties and

responsibilities the commission may determine, including the responsibility of actual operation of any or all of the facilities under the control of the commission;

- (b) *Purchase liability insurance for the members and executive officers exempted from the classified service of the state by KRS 18A.115; and*
- (c) *Operate shows and expositions that support the purpose and function of the Kentucky Horse Park.*

➔Section 5. KRS 148.285 is amended to read as follows:

The commission shall:

- (1) Formulate policies and procedures as necessary to carry out the provisions of KRS ~~148.258~~~~[148.260]~~ to 148.320;
- (2) Promulgate ~~administrative~~~~[rules and]~~ regulations as necessary to carry out the provisions of KRS ~~148.258~~~~[148.260]~~ to 148.320;
- (3) Annually provide the *Interim Joint Committee on Tourism, Small Business, and Information Technology*~~[Governor]~~ a report by *November 1*~~[January 30]~~ and provide the General Assembly a report by ~~January 30~~ showing the status of the horse industry within the Commonwealth and recommend any action necessary to preserve and strengthen that industry; and
- (4) Employ staff personnel, if any, as it may deem necessary to implement the business of the commission and the intent of KRS ~~148.258~~~~[148.260]~~ to 148.320. The commission shall fix the compensation of such employees and any employee of the commission shall be reimbursed for expenses paid or incurred in the discharge of official business when approved by the commission.

➔Section 6. KRS 148.290 is amended to read as follows:

- (1) The commission may enter into agreements with the law enforcement agency of any urban-county or counties in which the *Kentucky*~~[State]~~ Horse Park is located or in any adjacent county or with the Department of Kentucky State Police for proper policing of the *Kentucky*~~[State]~~ Horse Park. If authorized to do so by the commission and subject to KRS 61.300, the *president*~~[executive director]~~ may commission employees of the park as patrol officers. These patrol officers shall have all the powers of peace officers upon the property of the *Kentucky*~~[State]~~ Horse Park and the public property and roads traversing or immediately adjacent thereto.
- (2) The commission is authorized to establish by resolution speed limits governing the operation of motor vehicles on horse park property. Notice to the public of such speed limits shall be posted by signs or markings.
- (3) The commission may by administrative regulation establish restrictions on the use, including the operation, parking, impoundment, and removal, of golf cart-type vehicles, all-terrain vehicles as defined by KRS 189.010(24), horse trailers, and automobiles operated on *Kentucky*~~[State]~~ Horse Park property. The commission may prohibit the use of all-terrain vehicles on *Kentucky*~~[State]~~ Horse Park property.
- (4) The commission may by administrative regulation establish a permit system, including a fee schedule, for golf cart-type vehicles, require owners to purchase usage permits, and require that the usage permit be displayed on the vehicle when operated on *Kentucky*~~[State]~~ Horse Park property.
- (5) The commission may by administrative regulation establish a trailer permit system, including a fee schedule, for horse owners participating in events but not renting stalls at the *Kentucky*~~[State]~~ Horse Park.

➔Section 7. KRS 148.320 is amended to read as follows:

- (1) (a) All revenues derived by the commission from the use of properties and facilities under its custody and control shall be used exclusively for the purpose of defraying the expenses of the commission, the cost of the management and operation of such properties and facilities, the payment of interest and principal upon any indebtedness incurred by the commission for such properties and facilities, the creation of adequate reserves for the repair and replacement thereof and for the financing of further extensions, improvements, and additions thereto. Included in the cost of operation may be such promotional activities as the commission may determine upon as calculated to stimulate and increase the use and the revenues of such facilities, and to increase and stimulate the interest and usefulness of the *Kentucky*~~[State]~~ Horse Park.
- (b) *Any surplus revenues remaining after full provision for the purposes in paragraph (a) of this subsection shall:*

1. ***Be used to reduce the admission fees to the public for admittance to the Kentucky Horse Park and for public use by the citizens of the Commonwealth of the facilities, or reduce the annual appropriation by the General Assembly to the Kentucky Horse Park; and***
  2. ***Not be appropriated to any other agency or function.***
- (2) The commission shall generally cause its funds to be deposited in the State Treasurer's office to be withdrawn on appropriate vouchers approved by the commission.
  - (3) An annual accounting of the funds of the commission shall be made by the Auditor of Public Accounts and reported to the Governor for the benefit of the Governor and the General Assembly.
  - (4) ***The commission may receive tax revenues from any governmental unit and financial contributions from local governments, private persons, or foundations.***
  - (5) ***The president of the Kentucky Horse Park may, in lieu of the secretary of the Finance and Administration Cabinet, declare an emergency for purchasing purposes.***

➔Section 8. KRS 45A.095 is amended to read as follows:

- (1) For purposes of this section:
  - (a) "Emergency condition" means a situation which creates a threat or impending threat to public health, welfare, or safety such as may arise by reason of fires, floods, tornadoes, other natural or man-caused disasters, epidemics, riots, enemy attack, sabotage, explosion, power failure, energy shortages, transportation emergencies, equipment failures, state or federal legislative mandates, or similar events. The existence of the emergency condition creates an immediate and serious need for services, construction, or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten the functioning of government, the preservation or protection of property, or the health or safety of any person; and
  - (b) "Sole source" means a situation in which there is only one (1) known capable supplier of a commodity or service, occasioned by the unique nature of the requirement, the supplier, or market conditions.
- (2) A contract may be made by noncompetitive negotiation only:
  - (a) For sole source purchases;
  - (b) When competition is not feasible, as determined by the purchasing officer in writing prior to award, under administrative regulations promulgated by the secretary of the Finance and Administration Cabinet or the governing boards of universities operating under KRS Chapter 164A;
  - (c) When emergency conditions exist; or
  - (d) For sponsorships, naming rights, or other advertising or similar considerations for which competition is not feasible.
- (3) Insofar as it is practical, no fewer than three (3) suppliers shall be solicited to submit written or oral quotations whenever it is determined that competitive sealed bidding is not feasible. Award shall be made to the supplier offering the best value. The names of the suppliers submitting quotations and the date and amount of each quotation shall be placed in the procurement file and maintained as a public record.
- (4) Competitive bids may not be required:
  - (a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;
  - (b) Where rates are fixed by law or ordinance;
  - (c) For library books;
  - (d) For commercial items that are purchased for resale;
  - (e) For interests in real property;
  - (f) For visiting speakers, professors, expert witnesses, and performing artists;
  - (g) For personal service contracts executed pursuant to KRS 45A.690 to 45A.725;~~and~~
  - (h) For agricultural products in accordance with KRS 45A.645; ***and***

- (i) For contracts entered into by the president of the Kentucky Horse Park for emergency purchases pursuant to subsection (5) of Section 7 of this Act.*
- (5) The chief procurement officer, the head of a using agency, or a person authorized in writing as the designee of either officer may make or authorize others to make emergency procurements when an emergency condition exists.
- (6) The Finance and Administration Cabinet may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency shall be fully explained, in writing, by the head of the agency for which the purchase is to be made. The explanation shall be approved by the secretary of the Finance and Administration Cabinet and shall include the name of the vendor receiving the contract along with any other price quotations and a written determination for selection of the vendor receiving the contract. This information shall be filed with the record of all such purchases and made available to the public. Where practical, standard specifications shall be followed in making emergency purchases. In any event, every effort should be made to effect a competitively established price for purchases made by the state.
- (7) *Subsection (6) of this section shall not apply to emergency purchases made pursuant to subsection (5) of Section 7 of this Act.*

**Became law without Governor's signature March 29, 2023.**