

**147.620 Procedure for establishment, alteration, or dissolution of commission.**

- (1) If the fiscal courts of any two (2) or more adjacent counties elect to be consolidated as provided in KRS 147.610, and the respective legislative bodies of cities representing more than two-thirds (2/3) of the population of the residents living within the boundaries of corporate territories of each county, by ordinance or resolution elect to consolidate as provided in KRS 147.610, then the cities and counties so affected shall authorize the execution of a contract between themselves agreeing to participate in the creation of an area planning commission and agreeing to be governed by the provisions of KRS 147.610 to 147.705. When a sufficient number of municipalities and counties have executed said agreement, copies shall be filed in the office of the clerk of each of the counties affected. Thereupon an area planning commission is established. If at some later date the fiscal court and the legislative bodies of cities representing more than two-thirds (2/3) of the population of the residents living within the boundaries of the corporate territory of another adjacent county elect to join the area planning commission, then the cities and county so affected shall authorize the execution of a contract between themselves agreeing to participate and be governed by the provisions of KRS 147.610 to 147.705. The existing area planning council, as previously created under KRS 147.610 to 147.705 shall be empowered to execute an agreement accepting the new contract in behalf of the existing area planning council and commission. When such agreement is executed copies shall be filed in the office of the clerk of each of the counties affected. Thereupon the new area planning commission boundaries are established.
- (2) Any area planning commission created under the provisions of KRS 147.610 to 147.705 may be dissolved or altered in accordance with subsection (3), (4), or (5) of this section.
- (3) An area planning commission may be altered or dissolved by the fiscal court, as follows:
  - (a) Upon receipt of a petition and following a public hearing as provided herein, the fiscal court may alter the boundaries of an area planning commission by reducing its area, or may dissolve an area planning commission if that commission has for a period of two (2) consecutive years failed to provide the services for which it was established, or if all or a portion of such services have been provided by some other entity. The fiscal court of each member county of an area planning commission must vote to dissolve the commission before such dissolution may take effect.
  - (b) Upon receipt of a petition signed by at least twenty-five percent (25%) of the number of registered voters who voted in the last presidential election, the fiscal court shall schedule a public hearing on the matter of alteration or dissolution and advertise such hearing as provided in KRS 424.130.
  - (c) The petition shall be in substantially the following form: "The undersigned registered voters as determined by subsection (3)(b) of this section living within the area planning commission territory (and containing a description of the territory) hereby request that the fiscal court consider the alteration or

dissolution of the area planning commission pursuant to this section." The petition shall conspicuously state in laymen's terms that any legal obligations of the commission must be satisfied before the commission can be dissolved and that the citizens residing within the area planning commission territory shall be responsible for the satisfaction of any obligations. Signatures on the petition shall be dated, the last no later than ninety (90) days after the first.

- (d) At the hearing, the burden of proving that the commission is providing or taking substantial steps toward providing the services for which it was created, or that no other entity is providing the service, shall be upon the commission. In determining whether to alter, dissolve or to take no action in regard to the commission, the fiscal court shall consider testimony offered at the hearing and any other relevant information including but not limited to the following:
  - 1. Present and projected need for the service provided by the commission;
  - 2. Population density of the commission;
  - 3. Existence of alternate providers of services;
  - 4. Revenue base of the commission such as assessed valuation and bonding capacity; and
  - 5. Consequences of alteration of the commission's boundaries on the effectiveness and efficiency of the commission.
- (e) Within sixty (60) days following the hearing, the fiscal court shall set forth its written findings of fact in approving or disapproving the alteration or dissolution of the commission.
  - 1. If the fiscal court determines to dissolve the commission, it shall determine a method to satisfy any legal obligations of the commission which might be affected thereby. Upon satisfaction of its legal obligations, the commission shall be legally dissolved; any special ad valorem tax imposed by the commission shall be removed from the tax rolls by the county clerk; and any assets of the commission shall be assumed by the county.
  - 2. If the fiscal court determines to alter the boundaries of the commission, it shall draw the new boundaries of the commission and determine the proportional amount of existing legal obligations of the area which is to be excluded from the commission. Upon the satisfaction of such obligations, the new boundaries of the commission shall be legally effected and any affected taxpayer shall be removed from the tax rolls of the commission.
- (f) If the final decision of the fiscal court or the Circuit Court, in the case of an appeal as provided for herein, is against the alteration or dissolution of the commission, no attempt to alter or dissolve the commission pursuant to this section shall be made within three (3) years of the decision.
- (g) Any petitioner or member of the commission may, within thirty (30) days of the fiscal court's decision, appeal an adverse finding of the fiscal court to the Circuit Court in the county containing the greater part of the commission. The

Circuit Court shall review the decision of the fiscal court but shall reverse the decision only if such decision is found to be arbitrary or capricious. If the Circuit Court reverses the decision of the fiscal court by ordering the alteration or dissolution of the commission, it shall direct the fiscal court to determine, as provided in subsection (3)(e) of this section, a method for satisfying any legal obligations of the commission which might be affected thereby.

- (4) An area planning commission may be dissolved by a referendum as follows:
  - (a) Persons seeking dissolution of the commission shall submit a petition to the county clerk signed by at least twenty-five percent (25%) of the number of registered voters who voted in the last presidential election.
  - (b) The petition shall be in substantially the following form: "The undersigned registered voters as determined by subsection (4)(a) of this section, living within the area planning commission territory (and containing a description of the territory) hereby request that the question of the dissolution of the commission be put to a referendum." The petition shall conspicuously state in laymen's terms that any legal obligations of the commission must be satisfied before the commission can be dissolved and that citizens residing within the area planning commission territory shall be responsible for the satisfaction of any such obligations. Signatures on the petition shall be dated, the last no later than ninety (90) days after the first.
  - (c) If the county clerk determines that the petition is in proper order, he shall certify the petition to the fiscal court. The fiscal court shall direct that the question be placed on the ballot at the next regular election if the question is submitted to the county clerk not later than the second Tuesday in August preceding the regular election. The fiscal court shall bear the costs of advertising and placing the question on the ballot.
  - (d) The county clerk shall advertise the question as provided in KRS Chapter 424 and shall prepare the question for the ballot. The ballot shall contain the following admonition to the voter: "The (name of the area planning commission) may have existing legal obligations which must be satisfied before the commission can be dissolved. The citizens residing within the area planning commission territory shall be responsible for the satisfaction of any obligations." The question of the dissolution of the commission shall be placed on the ballot in substantially the following form: "The (name of the area planning commission and containing a description of the commission's territory) should be dissolved." The voter shall vote "yes" or "no."
  - (e) All registered voters shall be eligible to vote on the question of dissolution.
  - (f) In referendums under this section, provision shall be made for those opposing the dissolution of the commission to have equal representation with the proponents of the measure in the determination of eligibility of voters, and in the observance of canvassing and certifying of the returns.
  - (g) If a majority of those voting in the referendum as provided for herein, favor the dissolution of the commission, the commission shall, upon satisfaction of

its legal obligations, be dissolved by the order of the fiscal court, any special ad valorem tax imposed by the commission shall be removed from the tax rolls by the county clerk and any assets of the commission shall be assumed by the county.

- (h) If a majority of those voting in the referendum oppose the dissolution of the commission, no attempt to dissolve the commission pursuant to this section shall be made within five (5) years of the election.
  - (i) Each member county of an area planning commission must follow the procedures defined herein, before such dissolution may take effect.
  - (j) Any member county of an area planning commission may withdraw its membership after following the procedures defined herein. The commission shall continue to function after such withdrawals, with its boundaries consisting of the remaining county members. No county may withdraw from any commission unless it satisfies its part of all contractual obligations assumed by the commission prior to the passage of its resolution.
- (5) Nothing contained herein shall be construed as prohibiting any county, which is included in the territory of an area planning commission, from withdrawing that county's membership in an area planning commission, provided that the procedures for effectuating such withdrawal shall be in accordance with either subsection (3) or (4) of this section.

**Effective:** July 15, 1996

**History:** Amended 1996 Ky. Acts ch. 195, sec. 55, effective July 15, 1996. -- Amended 1982 Ky. Acts ch. 253, sec. 2, effective July 15, 1982. -- Amended 1974 Ky. Acts ch. 359, sec. 5. -- Created 1960 Ky. Acts ch. 248, sec. 2, effective June 16, 1960.