

157.621 Additional tax levies for debt service, new facilities, and major renovations in school districts with student population growth -- Criteria -- Equalization funding.

- (1) In addition to the levy required by KRS 157.440(1)(b) to participate in the Facilities Support Program of Kentucky, local school districts that have made the levy required by KRS 157.440(1)(b) are authorized to levy the following additional equivalent rates to support debt service, new facilities, or major renovations of existing school facilities, which levies shall not be subject to recall under any provision of the Kentucky Revised Statutes, or to voter approval under the provisions of KRS 157.440(2):
 - (a)
 1. Prior to April 24, 2008, local school districts that have experienced student population growth during a five (5) year period may levy an additional five cents (\$0.05) equivalent rate for debt service and new facilities. The tax rate levied by the district under this provision shall not be equalized by state funding, except as provided in paragraph (b) of this subsection. Any levy imposed under this paragraph prior to April 24, 2008, by a local school district shall continue until removed by the local school district.
 2. A local school district shall meet the following criteria in order to levy the tax provided in subparagraph 1. of this paragraph:
 - a. Growth of at least one hundred fifty (150) students in average daily attendance and three percent (3%) overall growth for the five (5) preceding years;
 - b. Bonded debt to the maximum capability of at least eighty percent (80%) of capital outlay from the Support Education Excellence in Kentucky funding program, all revenue from the local facility tax, and all receipts from state equalization on the local facility tax;
 - c. Current student enrollment in excess of available classroom space; and
 - d. A local school facility plan that has been approved by the Kentucky Board of Education and certified to the School Facilities Construction Commission;
 - (b)
 1. In addition to the levy authorized by paragraph (a) of this subsection, a local school district may levy an additional five cents (\$0.05) equivalent rate under the same terms and conditions established by paragraph (a) of this subsection beginning in fiscal year 2003-2004 if the levy was made prior to April 24, 2008, and if the local school district:
 - a. Levied the five cents (\$0.05) equivalent rate authorized by paragraph (a) of this subsection; and
 - b. Still meets the requirements established by paragraph (a)2. of this subsection.
 2. Any school district that imposes both the levy authorized by paragraph (a) of this subsection and the additional levy authorized by subparagraph

1. of this paragraph shall receive equalization funding from the state for the levy imposed by paragraph (a) of this subsection beginning in fiscal year 2003-2004. Equalization shall be provided at one hundred fifty percent (150%) of the statewide average per pupil assessment, subject to the provision of funding by the General Assembly. Equalization funds shall be used as provided in KRS 157.440(1)(b).
 3. Any levy imposed under this paragraph prior to April 24, 2008, by a local school district shall continue until removed by the local school district; and
- (c) 1. A local school district that meets the following conditions may levy an additional five cents (\$0.05) equivalent rate on and after April 24, 2008:
- a. The local school district is located in a county that will have more students as a direct result of the new mission established for Fort Knox by the Base Realignment and Closure (BRAC) 2005 issued by the United States Department of Defense pursuant to the Defense Base Closure and Realignment Act of 1990, Pub. L. No. 100-526, Part A of Title XXIX of 104 Stat. 1808, 10 U.S.C. sec. 2687 note; and
 - b. The commissioner of education has determined, based upon the presentation of credible data, that the projected increased number of students is sufficient to require new facilities or the major renovation of existing facilities to accommodate the new students, and has approved the imposition of the additional levy.
2. Any local school district that imposes both the levy authorized by paragraph (a) of this subsection and the additional levy authorized by subparagraph 1. of this paragraph, and that has not received equalization funding under subsection (2) or (3) of this section, shall receive equalization funding from the state for the levy imposed by paragraph (a) of this subsection beginning in the fiscal year following the fiscal year in which the levy authorized by subparagraph 1. of this paragraph is imposed. Equalization shall be provided at one hundred fifty percent (150%) of the statewide average per pupil assessment, subject to the provision of funding by the General Assembly. Equalization funds shall be used as provided in KRS 157.440(1)(b).
 3. Any levy imposed under this paragraph by a local school district shall continue until removed by the local school district.
- (2) (a) Any local school district that, prior to April 27, 2016, levied an equivalent rate that:
1. Was subject to recall at the time it was levied; and
 2. Included a rate of at least five cents (\$0.05) equivalent rate for the purpose of debt service for school construction or major renovation of existing school facilities;
- shall be eligible for retroactive equalization from the state for that levy at one

hundred fifty percent (150%) of the statewide average per pupil assessment beginning in fiscal year 2003-2004, subject to the fiscal condition of the Commonwealth and the provision of funding by the General Assembly. Equalization funds shall be used as provided in KRS 157.440(1)(b).

- (b) It is the intent of the General Assembly that for levies described in this subsection that are imposed on or after April 27, 2016, equalization funds, if provided by the General Assembly, shall terminate upon the earlier of June 30, 2038, or the date the bonds for the local school district supported by this equalization funding are retired. Equalization shall be subject to the fiscal condition of the Commonwealth and the provision of funding by the General Assembly.

(3) Any local school district that:

- (a) Levied an equivalent tax rate as of April 24, 2008, that included at least ten cents (\$0.10) that was devoted to building purposes, or that had debt service corresponding to a ten cents (\$0.10) equivalent rate;
- (b) Did not receive equalized growth funding pursuant to subsection (1)(b)2. of this section; and
- (c) Has been approved by the commissioner of education;

shall be eligible for equalization from the state for that levy at one hundred fifty percent (150%) of the statewide average per pupil assessment beginning in fiscal year 2005-2006, subject to the provision of funding by the General Assembly. Equalization funds shall be used as provided in KRS 157.440(1)(b). Equalization funds shall be available to a local school district pursuant to this subsection until the earlier of June 30, 2038, or the date the bonds for the local school district supported by this equalization funding are retired.

- (4)
 - (a) Notwithstanding any other provision of this section, any local school district receiving equalization funding prior to April 27, 2016, related to an equivalent rate levy described in subsection (1), (2), (3), or (5) of this section shall continue to receive the equalization funding related to the applicable equivalent rate levy, subject to the limitations established by subsections (1), (2), (3), and (5) of this section, and subject to the fiscal condition of the Commonwealth and the provision of funding by the General Assembly, until amended by subsequent action of the General Assembly. A local school district described in this paragraph shall not be eligible to receive equalization for any additional equivalent rate levies made by it on or after April 27, 2016.
 - (b) Notwithstanding any other provision of this section, any local school district that has imposed an equivalent rate levy described in subsection (1)(a) or (b) or (2) of this section prior to April 27, 2016, that qualifies for equalization but that has not yet received equalization funding shall be eligible for equalization funding as provided in subsection (1)(a) or (b) or (2) of this section, subject to the provision of funding by the General Assembly.
 - (c) On and after April 24, 2008, a local school district not included in paragraph (a) or (b) of this subsection shall be prohibited from imposing an equivalent

rate levy under the provisions of subsection (1)(a) or (b) of this section, and shall not be eligible for equalization funding under the provisions of this section.

- (d) On and after April 24, 2008, a local school district meeting the requirements of subsection (1)(c) of this section may impose the levy authorized by subsection (1)(c) of this section, and shall qualify for equalization as provided in subsection (1)(c) of this section, subject to the provision of funding by the General Assembly.
- (5) (a) Any local school district that:
- 1. Had school facilities classified as Category 5 on May 18, 2010, by the Kentucky Department of Education; and
 - 2. Levied an additional five cents (\$0.05) equivalent tax rate prior to April 27, 2016, for debt service, new construction, and major renovation beyond the five cents (\$0.05) equivalent tax rate required by KRS 157.440(1)(b), except as provided in paragraph (b) of this subsection;
- shall be eligible for equalization from the state for that levy at one hundred fifty percent (150%) of the statewide average per pupil assessment beginning in the fiscal year following the fiscal year in which the levy was imposed. This levy shall be subject to the recall provisions of KRS 132.017.
- (b) School districts that levied a five cents (\$0.05) equivalent tax rate for debt service, new construction, and major renovation, beyond the rate required by KRS 157.440(1)(b) prior to May 18, 2010, shall not be required to levy an additional tax to receive the equalization funds provided in paragraph (a) of this subsection.
 - (c) If the school district utilizes the equalization funds to support a bond issue for construction purposes, equalization funds shall be provided until the earlier of twenty (20) years or date the bonds are retired.
 - (d) In the event that a school district receives funding pursuant to this subsection to support construction of a new school facility and subsequently, as a result of litigation, receives funding for the same facility for which state funds were provided, that school district shall reimburse the Commonwealth an amount equal to the amount provided under paragraph (a) of this subsection. Any funds received in this manner shall be deposited in the budget reserve trust fund account established in KRS 48.705.

Effective: April 27, 2018

History: Amended 2018 Ky. Acts ch. 171, sec. 1, effective April 14, 2018; and ch. 207, sec. 3, effective April 27, 2018. -- Amended 2016 Ky. Acts ch. 138, sec. 5, effective April 27, 2016. -- Repealed and reenacted 2009 Ky. Acts ch. 86, sec. 12, effective March 24, 2009. -- Amended 2008 Ky. Acts ch. 80, sec. 1, effective April 11, 2008; and ch. 132, sec. 13, effective April 24, 2008. -- Amended 2000 Ky. Acts ch. 389, sec. 10, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 362, sec. 6, effective July 15, 1996. -- Created 1994 Ky. Acts ch. 436, sec. 1, effective July 15, 1994.

Legislative Research Commission Note (4/27/2018). This statute was amended by 2018 Ky. Acts chs. 171 and 207, which do not appear to be in conflict and have been codified together.

Legislative Research Commission Note (3/24/2009). 2009 Ky. Acts ch. 86, sec. 17, provides that "The intent of the General Assembly in repealing and reenacting KRS 136.392, 138.195, 141.160, 160.6156, 160.6157, 160.6158, 131.183, 141.044, 141.235, 134.580, 393.060, and 157.621 in Sections 1 to 12 of this Act is to affirm the amendments made to these sections in 2008 Ky. Acts ch. 132. The provisions in Sections 1 to 12 of this Act shall apply retroactively to April 24, 2008."

Legislative Research Commission Note (3/24/2009). 2009 Ky. Acts ch. 86, sec. 18, provides "To the extent that any provision included in this Act is considered new language, the provisions of KRS 446.145 requiring such new language to be underlined are notwithstanding."

Legislative Research Commission Note (4/24/2008). This section was amended by 2008 Ky. Acts chs. 80 and 132, in nearly identical form. After passage of House Bill 734 (which became 2008 Ky. Acts ch. 80), House Bill 704 (which became 2008 Ky. Acts ch. 132) was enacted containing amendments to this section that are identical to those in House Bill 734, with the addition of a few phrases. While there is no conflict in the text of these Acts and they have been codified together, the phrase "the effective date of this Act" has been codified as "April 24, 2008," in accordance with KRS 446.250, which provides that the last Act passed by the General Assembly prevails.