

AN ACT relating to prohibiting various state and local governmental entities from procuring goods and services from delinquent taxpayers.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "delinquent taxpayer" has the same meaning as in KRS 131.670.

(2) Effective July 15, 2015, no governmental body shall enter into a contract to acquire goods or services from a delinquent taxpayer.

(3) To further compliance with this section, the Department of Revenue shall make the current list of delinquent taxpayers available to all governmental bodies for use in the procurement process.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Delinquent taxpayer" has the same meaning as in KRS 131.670; and

(b) "Local governmental entity" means any city, county, urban-county government, consolidated local government, charter county government, unified local government, or special district of the Commonwealth.

(2) Effective July 15, 2015, no local governmental entity shall enter into a contract to acquire goods or services from a delinquent taxpayer.

(3) To further compliance with this section, the Department of Revenue shall make the current list of delinquent taxpayers available to all local governmental entities for use in the procurement process.

➔Section 3. KRS 160.160 is amended to read as follows:

(1) Each school district shall be under the management and control of a board of education consisting of five (5) members, except in counties containing a city of the

first class wherein a merger pursuant to KRS 160.041 shall have been accomplished which shall have seven (7) members elected from the divisions and in the manner prescribed by KRS 160.210(5), to be known as the "Board of Education of ..., Kentucky." Each board of education shall be a body politic and corporate with perpetual succession. It may sue and be sued; make contracts; expend funds necessary for liability insurance premiums and for the defense of any civil action brought against an individual board member in his official or individual capacity, or both, on account of an act made in the scope and course of his performance of legal duties as a board member; purchase, receive, hold, and sell property; issue its bonds to build and construct improvements; and do all things necessary to accomplish the purposes for which it is created. Each board of education shall elect a chairman and vice chairman from its membership in a manner and for a term prescribed by the board not to exceed two (2) years.

- (2) No board of education shall participate in any financing of school buildings, school improvements, appurtenances thereto, or furnishing and equipment, including education technology equipment without:
  - (a) First establishing the cost of the project in advance of financing, based on the receipt of advertised, public, and competitive bids for such project, in accordance with KRS Chapter 424; and
  - (b) Establishing the cost of financing in advance of the sale of any bonds, certificates of participation in any leases, or other evidences of financial commitments issued by or on behalf of such board. Any bonds, leases, participations, or other financial arrangements shall not involve a final commitment of the board until the purchaser or lender involved shall have been determined by public advertising in accordance with KRS Chapter 424.
- (3) No board of education shall make a mortgage, lien, or other encumbrance upon any school building owned by the board, or transfer title to any such school building as

part of any financing arrangement, without the specific approval of the Department of Education, and without the transaction being entered into pursuant to a detailed plan or procedure specifically authorized by Kentucky statute.

- (4) Without the approval of the Department of Education, no board may lease, as lessee, a building or public facility that has been or is to be financed at the request of the board or on its behalf through the issuance of bonds by another public body or by a nonprofit corporation serving as an agency and instrumentality of the board, or by a leasing corporation. Any lease, participation, or other financial arrangement shall not involve a final commitment of the board unless and until the purchaser or lender involved in same shall have been determined by public advertising in accordance with KRS Chapter 424. No transaction shall be entered into by the board except upon the basis of public advertising and competitive bidding in accordance with KRS Chapter 424.
- (5) Rental payments due by a board under a lease approved by the Department of Education in accordance with subsection (4) of this section shall be due and payable not less than ten (10) days prior to the interest due date for the bonds, notes, or other debt obligations issued to finance the building or public facility. If a board fails to make a rental payment when due under a lease, upon notification to the Department of Education by the paying agent, bond registrar, or trustee for the bonds not less than three (3) days prior to the interest due date, the Department of Education shall withhold or intercept any funds then due the board to the extent of the amount of the required payment on the bonds and remit the amount to the paying agent, bond registrar, or trustee as appropriate. Thereafter, the Department of Education shall resolve the matter with the board and adjust remittances to the board to the extent of the amount paid by the Department of Education on the board's behalf.
- (6) Bonds, notes or leases negotiated to provide education technology shall not be sold for longer than seven (7) years or the useful life of the equipment as established by

the state technology master plan, whichever is less.

**(7) (a) As used in this subsection, "delinquent taxpayer" has the same meaning as in KRS 131.670.**

**(b) Effective July 15, 2015, no board of education shall enter into a contract to acquire goods or services from a delinquent taxpayer.**

**(c) To further compliance with this subsection, the Department of Revenue shall make the current list of delinquent taxpayers available to all boards of education for use in the procurement process.**

➔Section 4. KRS 164A.575 is amended to read as follows:

- (1) The governing boards of each institution may elect to purchase interest in real property, contractual services, rentals of all types, supplies, materials, equipment, printing, and services, except that competitive bids may not be required for:
  - (a) Contractual services where no competition exists;
  - (b) Food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies;
  - (c) Instructional materials available from only one (1) source;
  - (d) Where rates are fixed by law or ordinance;
  - (e) Library books;
  - (f) Commercial items that are purchased for resale;
  - (g) Professional, technical, scientific, or artistic services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725;
  - (h) All other commodities, equipment, and services which, in the reasonable discretion of the board, are available from only one (1) source; and
  - (i) Interests in real property.
- (2) Nothing in this section shall deprive the boards from negotiating with vendors who maintain a General Services Administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed

under this provision shall authorize a price higher than is contained in the contract between General Services Administration and the vendor affected.

- (3) The governing board shall require the institution to take and maintain inventories of plant and equipment.
- (4) The governing board shall establish procedures to identify items of common general usage among all departments to foster volume purchasing. It shall establish and enforce schedules for purchasing supplies, materials, and equipment.
- (5) The governing board shall have power to salvage, to exchange, and to condemn supplies, equipment, and real property.
- (6) Upon the approval of the secretary of the Finance and Administration Cabinet, the governing board may purchase or otherwise acquire all real property determined to be needed for the institution's use. The amount paid shall not exceed the appraised value as determined by a qualified appraiser or the value set by the eminent domain procedure. Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.
- (7) The governing board shall sell or otherwise dispose of all real or personal property of the institution which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the board. The determination of the board shall be set forth in an order, and shall be reached only after review of a written request by the institution desiring to dispose of the property. Such request shall describe the property and state the reasons why the institution believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the appropriate officer of the board. Unless the board deems it in the best interest of the institution to proceed otherwise, all such real or personal property shall be sold either by invitation of sealed bids or by public auction; provided, however, that the selling

price of any interest in real property shall not be less than the appraised value thereof as determined by the Finance and Administration Cabinet or the Transportation Cabinet for such requirements of that department.

- (8) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employee of any board of the institution, based upon a written application by the grantor or lessor approved by the board, that the employee has not either himself or through any other person influenced or attempted to influence either the board requesting the purchase of the property. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.
- (9) (a) As used in this section, "construction manager-agency," "construction management-at-risk," "design-bid-build," and "design-build" shall have the same meaning as in KRS 45A.030.
- (b) For capital construction projects, the procurement may be on a total design-bid-build basis, a design-build basis, or construction management-at-risk basis, whichever in the judgment of the board offers the best value to the taxpayer. Best value shall be determined in accordance with KRS 45A.070. Proposals shall be reviewed by the institution's engineering staff to assure quality and value, and compliance with procurement procedures. All specifications shall be written to promote competition. Services for projects delivered on the design-build basis or construction management-at-risk basis shall be procured in accordance with KRS 45A.180 and the regulations promulgated in accordance with KRS 45A.180. Nothing in this section shall prohibit the procurement of construction manager-agency services.
- (10) The governing board shall attempt in every practicable way to insure the

institution's supplying its real needs at the lowest possible cost. To accomplish this the board may enter into cooperative agreements with other public or private institutions of education or health care.

- (11) The governing board shall have control and supervision over all purchases of energy consuming equipment, supplies, and related equipment purchased or acquired by the institution, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products.
- (12) The governing board 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 must be fully explained, in writing, by the vice president responsible for business affairs and such explanation must be approved by the university president. The letter and approval shall be filed with the record of all such purchases. Where practical, standard specifications shall be followed in making emergency purchases. A good faith effort shall be made to effect a competitively established price for emergency purchases.
- (13) (a) All governing boards that purchase agricultural products, as defined by KRS 45A.630, shall, on or before January 1 of each year, provide a report to the Legislative Research Commission and to the Department of Agriculture describing the types, quantities, and costs of each product purchased. The report shall be completed on a form provided by the department.
- (b) If purchasing agricultural products, a governing board shall encourage the purchase of Kentucky-grown agricultural products in accordance with KRS 45A.645. If a governing board purchases agricultural products through a contract with a vendor or food service provider, the contract shall require that if Kentucky-grown agricultural products are purchased, the products shall be purchased in accordance with KRS 45A.645. Only contracts entered into or

renewed after July 15, 2008, shall be required to comply with the provisions of this subsection.

- (c) All governing boards that purchase Kentucky-grown agricultural products shall, on or before January 1 of each year, provide a report to the Legislative Research Commission and to the Department of Agriculture describing the types, quantities, and costs of each product purchased. The report shall be completed on a form provided by the department.
- (14) Governing boards shall apply the reciprocal resident bidder preference described in KRS 45A.494 prior to the award of any contract.
- (15) Governing boards may authorize the use of reverse auctions as defined in KRS 45A.070 for the procurement of goods and leases.

**(16) (a) As used in this subsection, "delinquent taxpayer" has the same meaning as in KRS 131.670.**

**(b) Effective July 15, 2015, no governing board shall enter into a contract to acquire goods or services from a delinquent taxpayer.**

**(c) To further compliance with this subsection, the Department of Revenue shall make the current list of delinquent taxpayers available to all governing boards for use in the procurement process.**

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 175 IS CREATED TO READ AS FOLLOWS:

**(1) As used in this section, "delinquent taxpayer" has the same meaning as in KRS 131.670.**

**(2) Effective July 15, 2015, the authority shall not enter into a contract to acquire goods or services from a delinquent taxpayer.**

**(3) To further compliance with this section, the Department of Revenue shall make the current list of delinquent taxpayers available to the authority for use in the procurement process.**



➔Section 6. KRS 176.080 is amended to read as follows:

- (1) Each bidder shall accompany his bid with a bond or certified check payable to the State Treasurer for a reasonable sum, fixed by the department, guaranteeing that he will enter into a contract with the department for doing the work if the work is awarded to him.
- (2) Bids shall be opened publicly at the time and place designated in the invitation for bids. At the time the bids are opened, the department shall announce the department's engineer's estimate and make it a part of the department's records pertaining to the letting of any highway construction project contract for which bids were received. Each bid, together with the name of the bidder and the department's engineer's estimate, shall be recorded and open to public inspection.
- (3) The contract shall be awarded to the lowest and best bidder. The department may require bonds from any contractor to secure the performance of any contract or may require security by any other means it deems advisable.
- (4) The department may reject any bid when it finds it for the best interest of the state to do so. When all bids are rejected, the department shall advertise for new bids as in the first place.

**(5) (a) As used in this subsection, "delinquent taxpayer" has the same meaning as in KRS 131.670.**

**(b) Effective July 15, 2015, the department shall not enter into a contract under this chapter to acquire goods or services from a delinquent taxpayer.**

**(c) To further compliance with this subsection, the Department of Revenue shall make the current list of delinquent taxpayers available to the department for use in the procurement process.**

➔SECTION 7. A NEW SECTION OF KRS 177.010 TO 177.890 IS CREATED TO READ AS FOLLOWS:

**(1) As used in this section, "delinquent taxpayer" has the same meaning as in KRS**

131.670.

(2) Effective July 15, 2015, neither the department nor the cabinet shall enter into a contract under this chapter to acquire goods or services from a delinquent taxpayer.

(3) To further compliance with this section, the Department of Revenue shall make the current list of delinquent taxpayers available to the department and the cabinet for use in the procurement process.

➔Section 8. KRS 180.060 is amended to read as follows:

- (1) The department shall formulate a general plan for advertising, which plan shall be filed in the office of the department and be available to any person inquiring therefor.
- (2) All competitive bids received under the terms of this chapter shall be opened and read publicly by representatives of the department at a designated place, day, and hour, all of which shall be announced in the advertising relative thereto. At the time the bids are opened, the department shall announce the department's engineer's estimate and make it a part of the department's records pertaining to the letting of any contract for which bids were received. Each bid, together with the name of the bidder and the department's engineer's estimate, shall be recorded and be open to public inspection.
- (3) All bridges and approaches or substantial portions thereof when built by contract shall be let to the lowest and best bidder after advertisement, and after the preparation of detailed plans and specifications, which shall be submitted to all prospective bidders in ample time before a contract is awarded.
- (4) The department~~commission~~ may reject any and all bids made either for material, for construction or for the bonds or any one (1) or more of them.

(5) (a) As used in this subsection, "delinquent taxpayer" has the same meaning as in KRS 131.670.

**(b) Effective July 15, 2015, the department shall not enter into a contract under this chapter to acquire goods or services from a delinquent taxpayer.**

**(c) To further compliance with this subsection, the Department of Revenue shall make the current list of delinquent taxpayers available to the department for use in the procurement process.**

→Section 9. KRS 131.190 is amended to read as follows:

- (1) (a) No present or former commissioner or employee of the Department of Revenue, present or former member of a county board of assessment appeals, present or former property valuation administrator or employee, present or former secretary or employee of the Finance and Administration Cabinet, former secretary or employee of the Revenue Cabinet, or any other person, shall intentionally and without authorization inspect or divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the department or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business.
- (b) The prohibition established by paragraph (a) of this subsection does not extend to:
1. Information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws;
  2. Any matter properly entered upon any assessment record, or in any way made a matter of public record;
  3. Furnishing any taxpayer or his properly authorized agent with information respecting his own return;
  4. Testimony provided by the commissioner or any employee of the Department of Revenue in any court, or the introduction as evidence of

- returns or reports filed with the department, in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws;
5. Providing an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820(1), or owners of surface land under which the unmined minerals lie, factual information about the owner's property derived from third-party returns filed for that owner's property, under the provisions of KRS 132.820(2), that is used to determine the owner's assessment. This information shall be provided to the owner on a confidential basis, and the owner shall be subject to the penalties provided in KRS 131.990(2). The third-party filer shall be given prior notice of any disclosure of information to the owner that was provided by the third-party filer;
  6. Providing to a third-party purchaser pursuant to an order entered in a foreclosure action filed in a court of competent jurisdiction, factual information related to the owner or lessee of coal, oil, gas reserves, or any other mineral resources assessed under KRS 132.820(1). The department may promulgate an administrative regulation establishing a fee schedule for the provision of the information described in this subparagraph. Any fee imposed shall not exceed the greater of the actual cost of providing the information or ten dollars (\$10); ~~or~~
  7. Providing information to a licensing agency, the Transportation Cabinet, or the Kentucky Supreme Court under KRS 131.1817; or
  8. **Providing information to any of the following:**
    - a. **A governmental body, pursuant to Section 1 of this Act;**
    - b. **A local governmental entity, pursuant to Section 2 of this Act;**
    - c. **A local school district board of education, pursuant to Section 3**

of this Act;

d. A governing board of a postsecondary educational institution, pursuant to Section 4 of this Act; or

e. The Kentucky Turnpike Authority, the Department of Highways, or the Kentucky Transportation Cabinet, pursuant to Sections 5, 6, 7, or 8 of this Act.

- (2) The commissioner shall make available any information for official use only and on a confidential basis to the proper officer, agency, board or commission of this state, any Kentucky county, any Kentucky city, any other state, or the federal government, under reciprocal agreements whereby the department shall receive similar or useful information in return.
- (3) Statistics of tax-paid gasoline gallonage reported monthly to the Department of Revenue under the gasoline excise tax law may be made public by the department.
- (4) Access to and inspection of information received from the Internal Revenue Service is for Department of Revenue use only, and is restricted to tax administration purposes. Notwithstanding the provisions of this section to the contrary, information received from the Internal Revenue Service shall not be made available to any other agency of state government, or any county, city, or other state, and shall not be inspected intentionally and without authorization by any present secretary or employee of the Finance and Administration Cabinet, commissioner or employee of the Department of Revenue, or any other person.
- (5) Statistics of crude oil as reported to the Department of Revenue under the crude oil excise tax requirements of KRS Chapter 137 and statistics of natural gas production as reported to the Department of Revenue under the natural resources severance tax requirements of KRS Chapter 143A may be made public by the department by release to the Energy and Environment Cabinet, Department for Natural Resources.
- (6) Notwithstanding any provision of law to the contrary, beginning with mine-map

submissions for the 1989 tax year, the department may make public or divulge only those portions of mine maps submitted by taxpayers to the department pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-out parcel areas. These electronic maps shall not be relied upon to determine actual boundaries of mined-out parcel areas. Property boundaries contained in mine maps required under KRS Chapters 350 and 352 shall not be construed to constitute land surveying or boundary surveys as defined by KRS 322.010 and any administrative regulations promulgated thereto.

- (7) Notwithstanding any other provision of the Kentucky Revised Statutes, the department may divulge to the applicable school districts on a confidential basis any utility gross receipts license tax return information that is necessary to administer the provisions of KRS 160.613 to 160.617.