

1 AN ACT relating to public-private partnerships.

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

3 ➔Section 1. KRS 45.763 is amended to read as follows:

4 (1) Notwithstanding any statutory provisions to the contrary, any state agency as  
5 defined in KRS 7A.010, institution of higher education defined as an institution in  
6 KRS 164A.550, or affiliated corporation as defined in KRS 164A.550, shall obtain  
7 authorization from the General Assembly prior to entering into an agreement  
8 identified in subsection (2) of this section. The General Assembly authorization  
9 shall occur only when the General Assembly enacts legislation specifically  
10 authorizing the agreement.

11 (2) General Assembly authorization shall be required for an agreement for the use,  
12 purchase, or acceptance of real property of any value, or equipment with a value in  
13 excess of four hundred thousand dollars (\$400,000), if:

14 (a) The agreement provides that the state, a state agency, institution of higher  
15 education, or affiliated corporation will become the owner of the real property  
16 or equipment at any time; and

17 (b) All or any portion of the purchase price of the real property or equipment is  
18 funded through the issuance of a financial instrument which requires payment  
19 of principal and interest over time, including, but not limited to, notes, bonds,  
20 securities, and certificates of participation, regardless of the identity of the  
21 issuer.

22 **(3) (a) Authorization from the General Assembly under this section shall not be**  
23 **required for capital projects utilizing the public-private partnership delivery**  
24 **method.**

25 **(b) After negotiations between the contracting body and project partner are**  
26 **complete but before beginning work on any capital projects authorized**  
27 **under Section 2 of this Act, the contracting body shall report the project to**

1                   *the Capital Projects and Bond Oversight Committee for review and approval*  
2                   *in accordance with KRS 45.800.*

3           ➔Section 2. KRS 45A.077 is amended to read as follows:

- 4       (1) A public-private partnership delivery method may be utilized as provided in this  
5       section and administrative regulations promulgated thereunder. State contracts  
6       using this method shall be awarded by competitive negotiation.
- 7       (2) A contracting body utilizing a public-private partnership shall continue to be  
8       responsible for oversight of any function that is delegated to or otherwise performed  
9       by a private partner.
- 10      (3) On or before December 31, 2016, the secretary of the Finance and Administration  
11      Cabinet shall promulgate administrative regulations setting forth criteria to be used  
12      in determining when a public-private partnership is to be used for a particular  
13      project. The administrative regulations shall reflect the intent of the General  
14      Assembly to promote and encourage the use of public-private partnerships in the  
15      Commonwealth. The secretary shall consult with design-builders, construction  
16      managers, contractors, design professionals including engineers and architects, and  
17      other appropriate professionals during the development of these administrative  
18      regulations.
- 19      (4) A request for proposal for a project utilizing a public-private partnership shall  
20      include at a minimum:
- 21           (a) The parameters of the proposed public-private partnership agreement;
- 22           (b) The duties and responsibilities to be performed by the private partner or  
23           partners;
- 24           (c) The methods of oversight to be employed by the contracting body;
- 25           (d) The duties and responsibilities that are to be performed by the contracting  
26           body and any other partners to the contract;
- 27           (e) The evaluation factors and the relative weight of each to be used in the scoring

- 1 of awards;
- 2 (f) Plans for financing and operating the qualifying project and the revenues,  
3 service payments, bond financings, and appropriations of public funds needed  
4 for the qualifying project;
- 5 (g) Comprehensive documentation of the experience, capabilities, capitalization  
6 and financial condition, and other relevant qualifications of the private entity;
- 7 (h) The ability of a private partner or partners to quickly respond to the needs  
8 presented in the request for proposal, and the importance of economic  
9 development opportunities represented by the qualifying project. In evaluating  
10 proposals, preference shall be given to a plan that includes the involvement of  
11 small businesses as subcontractors, to the extent that small businesses can  
12 provide services in a competitive manner, unless any preference interferes  
13 with the qualification for federal or other funds; and
- 14 (i) Other information required by the contracting body or the cabinet to evaluate  
15 the proposals submitted by respondents and the overall proposed public-  
16 private partnership.
- 17 (5) A private entity desiring to be a private partner shall demonstrate to the satisfaction  
18 of the contracting body or the cabinet that it is capable of performing any duty,  
19 responsibility, or function it may be authorized or directed to perform as part of the  
20 public-private partnership agreement.
- 21 (6) When a request for proposal for a project utilizing a public-private partnership is  
22 issued for a capital project, the contracting body shall transmit a copy of the request  
23 for proposal to the Capital Projects and Bond Oversight Committee staff, clearly  
24 identifying to the staff that a public-private partnership is being utilized.
- 25 (7) A request for proposal or other solicitation may be canceled, or all proposals may be  
26 rejected, if it is determined in writing that the action is taken in the best interest of  
27 the Commonwealth and approved by the purchasing officer.

- 1 (8) In the case of any public-private partnership for a capital project with an aggregate  
2 value of twenty-five million dollars (\$25,000,000) or more, the project shall be  
3 authorized by the General Assembly, by inclusion in the branch budget bill or by  
4 any other means, explicitly identifying and authorizing the utilization of a public-  
5 private partnership delivery method for the applicable capital project. The  
6 authorization of a capital project required by this subsection is in addition to any  
7 other statutorily required authorization for a capital project **except for the**  
8 **authorization required in Section 1 of this Act, which shall not apply to capital**  
9 **projects utilizing the public-private partnership delivery method.**
- 10 (9) Upon issuance of a public-private partnership agreement, the contracting body shall  
11 submit the contract to the Government Contract Review Committee for review in  
12 accordance with KRS 45A.690 to 45A.725. The contracting body shall ensure that  
13 the contract clearly identifies to the committee that a public-private partnership is  
14 being utilized. Upon disapproval of or objection to the contract by the committee,  
15 **the secretary of the Finance and Administration Cabinet in consultation with** the  
16 contracting body shall determine whether the contract shall be revised to comply  
17 with the objections of the committee, be canceled, or remain in effect **pursuant to**  
18 **KRS 45A.705(6).**
- 19 (10) Any corporation as described by KRS 45.750(2)(c), or as created under the  
20 Kentucky Revised Statutes as a governmental agency and instrumentality of the  
21 Commonwealth, that manages its capital construction program shall:
- 22 (a) Adhere to the administrative regulations promulgated under this section when  
23 utilizing a public-private partnership for financing capital projects;
- 24 (b) Report to legislative committees as specified in this section; and
- 25 (c) Submit public-private partnership agreements issued by it to the General  
26 Assembly for authorization as provided in subsection (8) of this section.
- 27 (11) (a) The governing body of a postsecondary institution that manages its capital

1 construction program under KRS 164A.580 shall:

- 2 1. Report to the Capital Projects and Bond Oversight Committee staff as
- 3 specified in this section; and
- 4 2. Not be required to comply with the provisions of subsection (9) of this
- 5 section.

6 (b) Any provision of a public-private partnership agreement issued by a

7 postsecondary institution which provides for a lease by or to the

8 postsecondary institution shall be valid and enforceable if approved by the

9 governing board of the institution.

10 (12) (a) A person or business may submit an unsolicited proposal to a governmental

11 body, which may receive the unsolicited proposal.

12 (b) Within ninety (90)~~thirty (30)~~ days of receiving an unsolicited proposal, a

13 governmental body may elect to consider further action on the proposal, at

14 which point the governmental body shall provide public notice of the

15 proposal, and shall:

- 16 1. Provide specific information regarding the proposed nature, timing, and
- 17 scope of the unsolicited proposal, except that trade secrets, financial
- 18 records, or other records of the person or business making the proposal
- 19 shall not be posted unless otherwise agreed to by the governmental body
- 20 and the person or business; and
- 21 2. Provide for a notice period of not less than thirty (30) and no more
- 22 than ninety (90) days for the submission of competing proposals. The
- 23 length of the notice period shall be determined by considering the
- 24 complexity of the unsolicited proposal that was initially submitted.

25 (c) Upon the end of the notice period provided under paragraph (b)2. of this

26 subsection, the governmental body may consider the unsolicited proposal and

27 any competing proposals received. If the governmental body determines it is

1 in the best interest of the Commonwealth to implement some or all of the  
 2 concepts contained within the unsolicited proposal or competing proposals  
 3 received by it, the governmental body may begin an open, competitive  
 4 procurement process to do so pursuant to this chapter.

5 (d) An unsolicited proposal shall be deemed rejected if no written response is  
 6 received from the governmental body within ***ninety (90)***~~[sixty (60)]~~ days of  
 7 ***submission, during which time the governmental body has not taken any***  
 8 ***action on the proposal***~~[the end of the notice period provided]~~ under paragraph  
 9 (b)~~[2.]~~ of this subsection.

10 ➔Section 3. KRS 65.028 is amended to read as follows:

11 (1) As used in this section:

12 (a) "Best value" has the same meaning as in KRS 65.025;

13 (b) "Cabinet" means the Finance and Administration Cabinet;

14 (c) "Local government" means a city, county, charter county, urban-county  
 15 government, consolidated local government, or unified local government of  
 16 the Commonwealth;

17 (d) "Private partner" has the same meaning as in KRS 65.025; and

18 (e) "Public-private partnership" has the same meaning as in KRS 65.025.

19 (2) A public-private partnership delivery method may be utilized by a local government  
 20 as provided in this section and administrative regulations promulgated thereunder.  
 21 Contracts using this method shall be awarded by competitive negotiation on the  
 22 basis of best value, and shall in all cases take effect only if executed by the  
 23 legislative body of the local government. The provisions of KRS 65.025(2) to (4)  
 24 shall not apply to public-private partnerships utilized by local governments.

25 (3) A local government utilizing a public-private partnership shall continue to be  
 26 responsible for oversight of any function that is delegated to or otherwise performed  
 27 by a private partner.

- 1 (4) A public-private partnership shall not be used to circumvent any requirements or  
2 restrictions placed upon any local government pursuant to any provision of the  
3 Kentucky Revised Statutes.
- 4 (5) All public-private partnership agreements executed by a local government or any of  
5 its agencies under this section shall be approved by the legislative body of the local  
6 government at a public meeting, and shall include at a minimum the following  
7 provisions:
- 8 (a) 1. Property owned by a local government shall not be sold, conveyed, or  
9 disposed of in any way at any time; and
- 10 2. Leases issued by a local government to any party shall not be transferred  
11 in any way by that party;  
12 without the specific and express written consent of the legislative body of the  
13 local government;
- 14 (b) Require the private partner to provide or cause to be provided performance  
15 and payment bonds on the design and construction portion of the agreement as  
16 required under KRS 45A.435 and maintenance bonds, warranties, guarantees,  
17 and letters of credit in connection with the private partner's other activities  
18 under the agreement, in the forms and amounts satisfactory to the local  
19 government and in amounts necessary to provide adequate protection to the  
20 local government;
- 21 (c) Review and approval of plans and specifications for the project by the local  
22 government;
- 23 (d) Inspection of the project by the local government to ensure that the private  
24 partner's actions are acceptable to the local government in accordance with the  
25 agreement;
- 26 (e) Maintenance of public liability insurance or self-insurance, in form and  
27 amount satisfactory to the local government and reasonably sufficient to

- 1 insure coverage of tort liability to the public and employees and to enable the  
2 continued operation of the project;
- 3 (f) Reimbursement to be paid to the local government for services provided by  
4 the local government;
- 5 (g) Filing of appropriate financial statements by the private partner on a periodic  
6 basis;
- 7 (h) Policies and procedures governing the rights and responsibilities of the local  
8 government and the private partner in the event the public-private partnership  
9 agreement is terminated or there is a material default by the private partner.  
10 These policies and procedures shall include conditions governing assumption  
11 of the duties and responsibilities of the private partner by the local  
12 government, and the transfer or purchase of property or other interests of the  
13 private partner by the local government;
- 14 (i) Any fees or payments as may be established by agreement of the private  
15 partner and the local government;
- 16 (j) A detailed description of all duties and requirements of the private partner;
- 17 (k) The ability of a private partner or partners to quickly respond to the needs  
18 presented in the request for proposal, and the importance of economic  
19 development opportunities represented by the qualifying project. In evaluating  
20 proposals, preference shall be given to a plan that includes the involvement of  
21 small businesses as subcontractors, to the extent that small businesses can  
22 provide services in a competitive manner, unless any preference interferes  
23 with the qualification for federal or other funds; and
- 24 (l) Any other information necessary to properly address the life cycle of the  
25 agreement, including the disposition of assets if or when the public-private  
26 partnership agreement is terminated or otherwise concludes.
- 27 (6) (a) On or before December 31, 2016, the secretary of the Finance and



1 Administration Cabinet shall promulgate administrative regulations setting  
2 forth criteria to be used by a local government employing a public-private  
3 partnership for a particular project, and establishing a process for public-  
4 private partnership procurement undertaken by local governments consistent  
5 with this section. Prior to submission of the proposed administrative  
6 regulations pursuant to the regulatory process required by KRS Chapter 13A,  
7 the proposed administrative regulations shall be approved by the Kentucky  
8 Local Government Public-Private Partnership Board established by subsection  
9 (11) of this section.

10 (b) The secretary shall consult with design-builders, construction managers,  
11 contractors, design professionals including engineers and architects, and other  
12 appropriate professionals during the development of these administrative  
13 regulations.

14 (c) The secretary shall have the authority to contract with a consultant, pursuant  
15 to KRS 45A.695, to assist the cabinet and the Kentucky Local Government  
16 Public-Private Partnership Board with the review process required in  
17 subsection (12) of this section. The secretary may, through administrative  
18 regulation, impose a reasonable fee on the private partner to defray the cost of  
19 the review required in subsection (12) of this section, including any expenses  
20 or fees incurred in contracting with a consultant.

21 (d) If the secretary fails to timely promulgate administrative regulations pursuant  
22 to this subsection, local governments may then act pursuant to this section  
23 including compliance with the process outlined in subsection (12) of this  
24 section, in the absence of administrative regulations.

25 (7) A request for proposal for a local government project utilizing a public-private  
26 partnership shall include at a minimum:

27 (a) The parameters of the proposed public-private partnership agreement;

- 1 (b) The duties and responsibilities to be performed by the private partner or  
2 partners;
- 3 (c) The methods of oversight to be employed by the local government;
- 4 (d) The duties and responsibilities that are to be performed by the local  
5 government and any other partners to the contract;
- 6 (e) The evaluation factors and the relative weight of each to be used in the scoring  
7 of awards; and
- 8 (f) Other information required by a local government to evaluate the proposals  
9 submitted by respondents and the overall proposed public-private partnership.
- 10 (8) A private entity desiring to be a private partner shall demonstrate to the satisfaction  
11 of the local government that it is capable of performing any duty, responsibility, or  
12 function it may be authorized or directed to perform as part of the public-private  
13 partnership agreement.
- 14 (9) When a request for proposal for a project utilizing a public-private partnership is  
15 issued, the local government shall transmit a copy of the request for proposal to the  
16 cabinet and to the Department for Local Government.
- 17 (10) A request for proposal or other solicitation may be canceled, or all proposals may be  
18 rejected, if it is determined in writing that the action is taken in the best interest of  
19 the local government and approved by the legislative body.
- 20 (11) (a) There is established within the cabinet the Kentucky Local Government  
21 Public-Private Partnership Board, composed of eleven (11) members as  
22 follows:
- 23 1. The secretary of the cabinet, or the secretary's designee;
- 24 2. Two (2) individuals appointed by the Kentucky League of Cities, both of  
25 whom shall have experience in municipal financial operations;
- 26 3. Two (2) individuals appointed by the Kentucky Association of Counties,  
27 both of whom shall have experience in county financial operations, one

- 1 (1) to be recommended by the Kentucky County Judge/Executive  
2 Association and one (1) to be recommended by the Kentucky County  
3 Magistrates and Commissioners Association;
- 4 4. The commissioner of the Department for Local Government, or the  
5 commissioner's designee;
- 6 5. The executive director of the Office of Financial Management within the  
7 cabinet, or the executive director's designee;
- 8 6. The Auditor of Public Accounts, or the Auditor's designee;
- 9 7. One (1) citizen member appointed by the Governor, who shall have  
10 experience and knowledge in local government debt and financial  
11 operations; and
- 12 8. Two (2) members of the Kentucky General Assembly, one (1) appointed  
13 by the President of the Senate and one (1) appointed by the Speaker of  
14 the House of Representatives, each of whom shall serve in a nonvoting  
15 ex officio capacity and shall not be considered for purposes of  
16 determining a quorum.
- 17 (b) Members of the board shall begin their terms on August 1, 2016, and shall  
18 serve for a term of four (4) years.
- 19 (c) **Board members appointed under paragraph (a)2. and 3. of this subsection**  
20 **may send a designee with similar experience to meetings for which they are**  
21 **unavailable.**
- 22 (d) Vacancies occurring in the term of any member shall be filled in the same  
23 manner as the original appointment.
- 24 (e)~~(d)~~ The members of the board shall receive no compensation for their  
25 services.
- 26 (f)~~(e)~~ The secretary of the cabinet, or the secretary's designee, shall serve as  
27 chair of the board and the members shall elect a vice chair from among the

1 membership of the board. The vice chair may preside over meetings of the  
2 board in the absence of the chair.

3 ~~(g)~~~~(f)~~ The board shall meet at least once per year, and as needed for the timely  
4 consideration of proposed projects. A majority of the members of the board  
5 shall constitute a quorum.

6 ~~(h)~~~~(g)~~ The secretary of the cabinet shall be responsible for providing staff  
7 support and maintaining complete records of the board's actions and  
8 proceedings, as public records open to inspection.

9 (12) (a) Upon the initial issuance of a public-private partnership agreement having a  
10 total contractual value that equals or exceeds thirty percent (30%) of the  
11 general fund revenues received by the local government in the immediately  
12 preceding fiscal year, the local government shall submit the agreement to the  
13 cabinet for the sole purpose of making an evaluation to the Kentucky Local  
14 Government Public-Private Partnership Board of the following:

- 15 1. Whether the agreement meets the requirements of subsection (5) of this  
16 section;
- 17 2. An analysis of the overall project's economic and financial viability  
18 within the scope of available or proposed financing arrangements and  
19 expected revenues; and
- 20 3. Whether the agreement adheres to the procurement process required by  
21 subsection (2) of this section.

22 Public-private partnership agreements having a total contractual value that is  
23 less than thirty percent (30%) of the general fund revenues received by the  
24 local government in the immediately preceding fiscal year shall not be  
25 required to be submitted to the cabinet or the Kentucky Local Government  
26 Public-Private Partnership Board.

27 (b) The local government shall submit any information required by the cabinet,

1 relating to the agreement and its procurement, to enable the cabinet to conduct  
2 this evaluation.

3 (c) The cabinet shall acknowledge receipt of the agreement within thirty (30)  
4 days, and after evaluation thereof shall, within ninety (90) days of its receipt,  
5 forward the results of its evaluation separately to each individual member of  
6 the Kentucky Local Government Public-Private Partnership Board. The full  
7 board shall meet within sixty (60) days of the issuance of the cabinet's  
8 evaluation to consider the evaluation provided by the cabinet and approve or  
9 disapprove the proposed agreement. If the board disapproves the project, the  
10 board shall provide specific reasons for its disapproval. If the board approves  
11 the project, the cabinet shall return the agreement to the local government  
12 legislative body for final execution thereof. No public-private partnership  
13 agreement issued by a local government *that is subject to evaluation by the*  
14 *cabinet and review and approval by the Kentucky Local Government*  
15 *Public-Private Partnership Board pursuant to paragraph (a) of this*  
16 *subsection* shall take effect unless and until it is approved by the Kentucky  
17 Local Government Public-Private Partnership Board pursuant to this  
18 subsection and is found by the board to meet the requirements of this section  
19 and to be economically viable as provided in this subsection.

20 (d) If an agreement is not approved by the board, the local government submitting  
21 the agreement may modify the agreement and resubmit it for reconsideration  
22 in accordance with this section.

23 (13) The Commonwealth shall bear no liability for public-private partnership agreements  
24 approved pursuant to subsection (12) of this section.

25 (14) Upon approval and execution of a public-private partnership agreement, the local  
26 government shall transmit a copy of the agreement to the Department for Local  
27 Government.

- 1 (15) The Auditor of Public Accounts may periodically review public-private partnership  
2 agreements executed by a local government pursuant to this section, and any actions  
3 undertaken by private partners and local governments thereunder, to evaluate  
4 compliance with the agreement and this section.
- 5 (16) Multiple local governments, acting in accordance with KRS 65.210 to 65.300, may  
6 jointly enter into a public-private partnership pursuant to this section. Public-private  
7 partnership agreements involving multiple local governments shall only be required  
8 to be submitted to the cabinet for evaluation **and to the Kentucky Local**  
9 **Government Public-Private Partnership Board for review and approval**, as  
10 provided by subsection (12) of this section, if the total contractual value equals or  
11 exceeds thirty percent (30%) of the combined general fund revenues received in the  
12 immediately preceding fiscal year by all local governments participating in the  
13 agreement.
- 14 (17) (a) A person or business may submit an unsolicited proposal to a local  
15 government, which may receive the unsolicited proposal.
- 16 (b) Within **ninety (90)**~~thirty (30)~~ days of receiving an unsolicited proposal, a  
17 local government may elect to consider further action on the proposal, at  
18 which point the local government shall provide public notice of the proposal  
19 pursuant to KRS Chapter 424 or electronically on the Web site of the local  
20 government, and shall:
- 21 1. Provide specific information regarding the proposed nature, timing, and  
22 scope of the unsolicited proposal, except that trade secrets, financial  
23 records, or other records of the person or business making the proposal  
24 shall not be posted unless otherwise agreed to by the local government  
25 and the person or business; and
  - 26 2. Provide for a notice period of **not less than thirty (30) and no more**  
27 **than** ninety (90) days for the submission of competing proposals. **The**

1                   *length of the notice period shall be determined by considering the*  
 2                   *complexity of the unsolicited proposal that was initially submitted.*

- 3           (c) Upon the end of the notice period provided under paragraph (b)2. of this  
 4           subsection, the local government may consider the unsolicited proposal and  
 5           any competing proposals received. If the local government determines it is in  
 6           the best interest of the local government to implement some or all of the  
 7           concepts contained within the unsolicited proposal or competing proposals  
 8           received by it, the local government may begin an open, competitive  
 9           procurement process to do so pursuant to this section.
- 10          (d) An unsolicited proposal shall be deemed rejected if no written response is  
 11          received from the local government within *ninety (90)*~~sixty (60)~~ days *after*  
 12          *submission, during which time the governmental body has not taken any*  
 13          *action on the proposal*~~[of the end of the notice period provided]~~ under  
 14          paragraph (b)~~[2.]~~ of this subsection.

15          ➔Section 4. KRS 175B.015 is amended to read as follows:

- 16          (1) The Kentucky Public Transportation Infrastructure Authority is hereby established  
 17          as an independent de jure municipal corporation and political subdivision of the  
 18          Commonwealth constituting a governmental agency and instrumentality of the  
 19          Commonwealth. The General Assembly hereby finds and declares that in carrying  
 20          out its functions, powers, and duties as prescribed in this chapter, the state authority  
 21          will be performing essential public and government functions that improve the  
 22          public welfare and prosperity of the people of the Commonwealth by promoting the  
 23          availability of and enhancing accessibility to improved transportation services  
 24          within the Commonwealth.
- 25          (2) (a) The state authority shall be composed of the following eleven (11) voting  
 26          members:
- 27                  1. The secretary of the Finance and Administration Cabinet, or the

- 1                    secretary's designee;
- 2                    2. The secretary of the Transportation Cabinet;
- 3                    3. A representative of the Kentucky Association of Counties, to be
- 4                    appointed by the Governor;
- 5                    4. A representative of the Kentucky County Judges/Executive Association,
- 6                    to be appointed by the Governor;
- 7                    5. A representative of the Kentucky League of Cities, to be appointed by
- 8                    the Governor; and
- 9                    6. Six (6) citizen members to be appointed by the Governor and confirmed
- 10                    by the Senate in accordance with KRS 11.160, at least two (2) of whom
- 11                    shall be familiar with road and bridge design or the financing and
- 12                    administration of transportation infrastructure projects; and
- 13                    (b) Each Kentucky member who shares duties as a presiding officer of a bi-state
- 14                    authority pursuant to KRS 175B.030(4)(a)3. shall serve as a nonvoting ex
- 15                    officio member.
- 16                    (3) The ex officio members shall serve for the term of their respective offices.
- 17                    (4) Members appointed pursuant to subsection (2)(a)3. to 6. of this section shall begin
- 18                    their terms on October 1, 2009, and shall be appointed for a term of four (4) years;
- 19                    however, in making initial appointments, the members appointed pursuant to
- 20                    subsection (2)(a)6. of this section shall include two (2) members for a term of two
- 21                    (2) years, two (2) members for a term of three (3) years, and two (2) members for a
- 22                    term of four (4) years.
- 23                    (5) Vacancies occurring during the term of any member shall be filled in the same
- 24                    manner as the original appointment.
- 25                    (6) The members of the state authority shall receive no compensation for their services,
- 26                    but shall be entitled to reimbursement for all reasonable expenses necessary and
- 27                    incidental to the performance of their duties and functions as members of the state



1 authority.

2 (7) (a) Members of the state authority shall be considered public servants subject to  
3 KRS Chapter 11A.

4 (b) The following individuals or entities shall be prohibited from entering into  
5 any contract or agreement with the state authority:

6 1. Any member of the state authority, a project authority, or a bi-state  
7 authority;

8 2. Any spouse, child, stepchild, parent, stepparent, or sibling of a member  
9 of the state authority, a project authority, or a bi-state authority; and

10 3. Any corporation, limited liability entity, or other business entity of  
11 which a person identified in subparagraph 1. or 2. of this paragraph is an  
12 owner, member, or partner or has any other ownership interest.

13 (8) (a) The chairman of the state authority shall be the secretary of the Transportation  
14 Cabinet.

15 (b) The members of the state authority shall elect a vice chairman and a secretary  
16 from the membership.

17 (9) The Finance and Administration Cabinet shall provide fiscal consultant services to  
18 the state authority.

19 (10) The state authority shall hold its initial meeting no later than November 1, 2009,  
20 and shall meet as needed thereafter, ~~for at least quarterly if any bi-state authority or~~  
21 ~~project authority exists,~~ with adequate notice at the call of the chair. A quorum of  
22 at least fifty percent (50%) of the members of the state authority must be present for  
23 the state authority to take any action. At least eight (8) members shall vote in the  
24 affirmative for the state authority to approve a new project. All other business shall  
25 be approved by a majority vote of the members present.

26 (11) (a) The state authority shall be attached for administrative purposes to the  
27 Transportation Cabinet. The state authority shall establish and maintain an

1 office, and the secretary of the state authority shall maintain complete records  
2 of the state authority's actions and proceedings as public records open to  
3 inspection.

4 (b) The state authority shall employ staff as needed in the conduct of its duties  
5 and functions, and shall fix their compensation.

6 (12) The state authority may promulgate administrative regulations in accordance with  
7 KRS Chapter 13A as needed:

8 (a) Establishing collection and enforcement procedures, including fines, charges,  
9 assessments, and other enforcement mechanisms, for the violation of KRS  
10 175B.040(4), and for violation of any administrative regulation promulgated  
11 under this subsection;

12 (b) Establishing an appeals process by which a person may contest a violation of  
13 KRS 175B.040(4), or a violation of any administrative regulation promulgated  
14 under this subsection, by way of an administrative hearing to be conducted in  
15 accordance with KRS Chapter 13B;

16 (c) Relating to any matters necessary to the efficient administration of tolls when  
17 implemented for a project developed under this chapter; and

18 (d) To fulfill any other requirements of this chapter.

19 (13) The state authority shall comply with applicable provisions of KRS Chapter 45A in  
20 the development of a project and the procurement of goods and services.

21 (14) The records of the state authority shall be considered open records pursuant to KRS  
22 61.870 to 61.884.

23 (15) The meetings of the state authority shall be considered open meetings pursuant to  
24 KRS 61.805 to 61.850.

25 ➔Section 5. KRS 175B.020 is amended to read as follows:

26 (1) The state authority's primary purpose shall be to facilitate the construction,  
27 financing, operation, and oversight of projects by entering into bi-state agreements

1 and by creating bi-state authorities, project authorities, and public-private  
2 partnerships. To accomplish these purposes, the state authority shall have the power  
3 and duty to:

4 (a) Take the following actions relating to a bi-state authority authorized pursuant  
5 to KRS 175B.030:

- 6 1. To enter into a bi-state agreement;
- 7 2. To review and approve project financing plans and development  
8 agreements; and
- 9 3. To monitor agreements entered into by bi-state authorities;

10 (b) Take the following actions relating to a project authority authorized pursuant  
11 to KRS 175B.035:

- 12 1. To request establishment of a project authority;
- 13 2. To review and approve project financing plans and development  
14 agreements;
- 15 3. To monitor activities of project authorities; and
- 16 4. To enter into an agreement with the project authority; and

17 (c) Take the following actions relating to a public-private partnership authorized  
18 pursuant to KRS 175B.037:

- 19 1. To request establishment of a public-private partnership;
- 20 2. To review and approve project financing plans;
- 21 3. To monitor activities of public-private partnerships; and
- 22 4. To enter into an agreement as a part of or with a public-private  
23 partnership, if necessary.

24 (2) The state authority, when authorized pursuant to subsection (10) of this section,  
25 may participate as a developing or issuing authority, or both, in the development,  
26 construction, or financing of a project by a bi-state or project authority, or by a  
27 public-private partnership, if necessary. If the state authority participates as a

1 developing or issuing authority, the state authority shall have the powers and duties  
2 established in KRS 175B.025 as they apply to that project.

3 (3) The state authority, as a function of its oversight of any other authority created  
4 pursuant to this chapter, shall report before the first issuance of bonds and no less  
5 than semiannually thereafter to the Capital Projects and Bond Oversight Committee  
6 and to the Interim Joint Committee on Appropriations and Revenue of the  
7 Legislative Research Commission, on any projects currently proposed or under  
8 development by each authority. Current and proposed levels of bonding for each  
9 project shall be reviewed by the Capital Projects and Bond Oversight Committee in  
10 accordance with KRS 45.794 before the bonds shall be issued.

11 (4) The state authority, when proposing a project pursuant to this chapter, shall to the  
12 extent practical consult with the officials representing the units of local government  
13 in which the proposed project is to be located in order to obtain the advice and input  
14 on the local impact of the proposed project, including information regarding land  
15 use planning, transportation planning, economic development, and any other factors  
16 having a direct impact to the local community.

17 (5) The state authority may receive an unsolicited proposal if the proposal contains:

18 (a) An executive summary of no more than three (3) pages that details the  
19 revenue source for the proposed project, the amount of revenue expected to be  
20 generated by the project, and the project costs;

21 (b) A certification from a financial expert stating that the contents of the  
22 unsolicited proposal are true and correct; and

23 (c) A fee for the review of the executive summary~~[A commitment to pay the~~  
24 ~~costs incurred by the state authority and the cabinet for evaluating the~~  
25 ~~unsolicited proposal].~~

26 (6) The state authority shall respond to a person offering an unsolicited proposal  
27 notifying the person that the proposal has been rejected or approved for further

1 review.

2 (7) If the state authority approves an unsolicited proposal for further review, the state  
3 authority shall independently verify that it is in the best interest of the  
4 Commonwealth.

5 (8) **If the state authority approves a proposal for further review, the**<sup>[A]</sup> person  
6 making **the**<sup>[an]</sup> unsolicited proposal shall pay all costs of evaluating the unsolicited  
7 proposal incurred by the state authority and the cabinet **pursuant to an agreement**  
8 **negotiated between the state authority and the person making the unsolicited**  
9 **proposal.**

10 (9) If the state authority and the cabinet agree that an unsolicited proposal is in the best  
11 interest of the Commonwealth, the state authority, with the assistance of the cabinet,  
12 shall begin a competitive procurement process to implement some or all of the  
13 concepts contained in the unsolicited proposal.

14 (10) (a) Notwithstanding any other provision of this chapter, the following actions  
15 shall not take effect until ratified by the General Assembly:

- 16 1. The creation of a bi-state authority;
- 17 2. The creation of a project authority;
- 18 3. The creation of a public-private partnership;
- 19 4. The modification or amendment of the scope of any project; and
- 20 5. The development of any project undertaken entirely by the state  
21 authority.

22 (b) If any action described in paragraph (a) of this subsection is not ratified by the  
23 General Assembly, the creation, approval, or modification shall be considered  
24 void.

25 **(11) The state authority shall promulgate an administrative regulation in accordance**  
26 **with KRS Chapter 13A to determine the fee required by paragraph (c) of**  
27 **subsection (5) of this section for the review of the executive summary.**

1           ➔Section 6. KRS 175B.030 is amended to read as follows:

- 2   (1) (a) 1. This section shall apply to any project that connects Kentucky with any  
3           state that adjoins the Commonwealth. A proposal to construct a project  
4           that connects Kentucky with an adjoining state shall be contained in a  
5           financing plan prepared pursuant to subsection (6) of this section. If  
6           approved, the project shall be constructed under the supervision of the  
7           state authority, a bi-state authority, or both, and may be financed by the  
8           state authority, a bi-state authority, a public-private partnership, or any  
9           combination of these.
- 10           2. If the state authority, operating pursuant to KRS 175B.020, participates  
11           in any capacity in the construction or financing of a project that connects  
12           Kentucky with an adjoining state, the state authority may assume all or  
13           part of the role of the bi-state authority relative to that project.
- 14           (b) Subsections (2) to (4) of this section shall only apply to a bi-state authority.
- 15           (c) Subsections (1) and (5) to (8) of this section shall apply to both a bi-state  
16           authority and a public-private partnership.
- 17   (2) (a) A local government that contains a portion of a proposed project may, by  
18           resolution of its governing body, request that its chief executive officer and  
19           the Governor appoint a group of Kentucky members to negotiate with a  
20           similar group from an adjoining state for the purpose of proposing the creation  
21           of a bi-state authority composed of members from both states, recognized  
22           under the laws of both states, and existing for the purpose of financing,  
23           constructing, and operating a project or projects mutually beneficial to both  
24           states.
- 25           (b) If established, the Kentucky membership of the bi-state authority shall consist  
26           of seven (7) members, three (3) of whom shall be appointed by the Governor,  
27           and four (4) of whom shall be appointed by the chief executive of the local

1 government in which the project is located. The four (4) local government  
2 appointees shall be residents of the county in which the project is located. If a  
3 project is located in a consolidated local government, no more than two (2)  
4 appointees shall reside in the same Kentucky senatorial district. If portions of  
5 the project are located in more than one (1) local government, the chief  
6 executive of the county or consolidated local government having the largest  
7 population shall make the appointments authorized in this paragraph.

8 (c) Any proposed agreement to establish a bi-state authority shall be presented to  
9 the state authority for approval. If the state authority approves the agreement,  
10 it shall be submitted to the General Assembly for ratification. If the agreement  
11 is ratified by the General Assembly, the state authority shall authorize the  
12 establishment of a bi-state authority and shall enter into an agreement with the  
13 adjoining state for the creation of a bi-state authority.

14 (3) (a) Kentucky members of a proposed bi-state authority who are appointed by the  
15 Governor shall be confirmed by the Senate in accordance with KRS 11.160.  
16 Members appointed by the chief executive of the local government shall be  
17 confirmed by the governing body of the local government.

18 (b) At least two (2) of the Governor's appointees and two (2) of the chief  
19 executive's appointees shall be familiar with road and bridge design or  
20 financing and administration of transportation infrastructure projects.

21 (c) Members of a bi-state authority appointed by the Governor shall serve for four  
22 (4) years, except that initial appointments shall be as follows:

- 23 1. One (1) appointee shall serve a term of two (2) years;
- 24 2. One (1) appointee shall serve a term of three (3) years; and
- 25 3. One (1) appointee shall serve a term of four (4) years.

26 (d) The governing body of the local government requesting formation of the bi-  
27 state authority shall, by resolution, establish term lengths for the initial and

1 succeeding members who are locally appointed, with each term not to exceed  
2 four (4) years.

3 (e) Members of a bi-state authority representing the Commonwealth may be  
4 reappointed upon the expiration of their terms. Members reappointed shall be  
5 reconfirmed in the same manner as newly appointed members.

- 6 (4) (a) An agreement establishing a bi-state authority shall at a minimum:
- 7 1. Establish the total number of members of the bi-state authority;
  - 8 2. Establish staffing and funding to support the work of the bi-state  
9 authority;
  - 10 3. Designate the process for selecting a presiding officer of the bi-state  
11 authority, which shall include a requirement that a member from each  
12 state share the duties of presiding; and
  - 13 4. Require the approval of a majority of the members from each state  
14 before any action may be taken or any change may be made by the bi-  
15 state authority.

16 (b) A bi-state authority created pursuant to this section shall take the legal form  
17 necessary to conform to the laws of both states. The Commonwealth shall  
18 consider the bi-state authority to be an independent de jure municipal  
19 corporation, constituting a governmental agency and instrumentality of the  
20 appropriate jurisdictions. The bi-state authority shall adopt a name indicative  
21 of its location and purpose.

22 (c) Any bi-state agreement approved pursuant to this section may be presented to  
23 the United States Congress for consent thereof by joint resolution as provided  
24 in Article 1, Section 10, Clause 3 of the United States Constitution.

25 (5) (a) Members of a bi-state authority appointed from the Commonwealth shall be  
26 considered public servants subject to KRS Chapter 11A.

27 (b) Members of a bi-state authority appointed from the Commonwealth shall



1 receive no compensation for their services, but shall be entitled to  
2 reimbursement for all reasonable expenses necessary and incidental to the  
3 performance of their duties and functions as members of the bi-state authority.

4 (c) The following individuals or entities shall be prohibited from entering into  
5 any contract or agreement with a bi-state authority or a public-private  
6 partnership:

- 7 1. Any member of the bi-state authority appointed to represent the  
8 Commonwealth or any member of the state authority, a project authority,  
9 or a public-private partnership;
- 10 2. Any spouse, child, stepchild, parent, stepparent, or sibling of a member  
11 of the bi-state authority appointed to represent the Commonwealth or  
12 any spouse, child, stepchild, parent, stepparent, or sibling of a member  
13 of the state authority, a project authority, or a public-private partnership;  
14 and
- 15 3. Any corporation, limited liability entity, or other business entity of  
16 which a person identified in subparagraph 1. or 2. of this paragraph is an  
17 owner, member, or partner or has any other ownership interest.

18 (d) A bi-state authority or public-private partnership shall comply with the  
19 procurement laws of both states that are a party to the agreement creating the  
20 bi-state authority or public-private partnership, including the provisions of  
21 KRS Chapter 45A, in the development of a project and the procurement of  
22 goods and services.

23 (e) A bi-state authority or public-private partnership shall comply with the laws of  
24 both states concerning the inspection and disclosure of public records,  
25 including KRS 61.870 to 61.884.

26 (f) A bi-state authority or public-private partnership shall comply with the laws of  
27 both states concerning the conduct of open meetings, including KRS 61.805 to

1           61.850.

- 2       (6)   (a)   Prior to the execution of any agreements for the construction of the project,  
3           the state authority, the bi-state authority, a public-private partnership, or any  
4           combination of these, if appropriate, shall prepare a financial plan specifying  
5           the construction and financing parameters of the project, including:
- 6           1.   A timeline for construction of the project, including financing  
7           requirements throughout the construction of the project;
  - 8           2.   The amount and duration of per-vehicle tolls;
  - 9           3.   Expected appropriations from the General Assembly to be used for  
10          project costs; however, no financial plan shall be submitted or approved  
11          which seeks or purports to bind any future General Assembly to  
12          appropriate any moneys~~[contains expected appropriations by the~~  
13          ~~General Assembly]~~ beyond those appropriated in the most recently  
14          enacted biennial highway construction plan;
  - 15          4.   Other sources of funds and expected amounts; and
  - 16          5.   Other provisions relating to the construction and financing of the  
17          project.
- 18       (b)   1.   If the financial plan is prepared by a bi-state authority, the Kentucky  
19           members of the bi-state authority shall consult with the involved local  
20           governments in Kentucky, the department, and the Finance and  
21           Administration Cabinet, Office of Financial Management, during the  
22           development of the financial plan. Upon completion and approval of the  
23           financial plan by the bi-state authority, the plan shall be submitted to the  
24           state authority for approval.
- 25          2.   If the financial plan is prepared by the state authority, the state authority  
26           shall consult with the involved local governments in Kentucky, the  
27           department, and the Finance and Administration Cabinet, Office of

1 Financial Management, during the development of the financial plan. If  
2 the financial plan is viable based on all information available to the state  
3 authority, the state authority shall recommend the plan.

4 3. If the financial plan is prepared by a public-private partnership, the  
5 public-private partnership shall consult with the involved local  
6 governments in Kentucky, the department, and the Finance and  
7 Administration Cabinet, Office of Financial Management, during the  
8 development of the financial plan. Upon completion and approval of the  
9 financial plan by the public-private partnership, the plan shall be  
10 submitted to the state authority for approval.

11 (c) The state authority shall not approve or recommend a financial plan which  
12 seeks or purports to bind any future General Assembly to appropriate any  
13 moneys~~[contains expected appropriations by the General Assembly]~~ beyond  
14 those appropriated in the most recently enacted biennial highway construction  
15 plan. If the financial plan is approved or recommended by the state authority,  
16 the cabinet and, as necessary, other state agencies or local governments may  
17 enter into a development agreement as provided in subsection (7) of this  
18 section with all necessary parties for the development of a project.

19 (d) Every financial plan prepared pursuant to this section shall include an  
20 evaluation of the ability of a potential contractor or service provider to quickly  
21 respond to the needs presented in a major transportation project, and the  
22 importance of economic development opportunities represented by the  
23 construction of any project under this chapter. In evaluating proposals,  
24 preference shall be given to a plan that includes the involvement of small  
25 businesses as subcontractors, to the extent that small businesses can provide  
26 services in a competitive manner, unless any preference interferes with the  
27 qualification for federal funds.

- 1 (7) (a) Upon approval or recommendation of the financial plan as provided in  
 2 subsection (6) of this section, a development agreement may be entered into  
 3 establishing the terms and conditions under which a project will be undertaken  
 4 and the duties, responsibilities, powers, and authorities of the parties to the  
 5 agreement. The development agreement shall, at a minimum:
- 6 1. Require the bi-state authority or public-private partnership to submit an  
 7 annual report to the cabinet and the Legislative Research Commission;
  - 8 2. Require that an annual audit of the bi-state authority or public-private  
 9 partnership be performed by a certified public accountant;
  - 10 3. Include the relevant provisions from the financial plan required by  
 11 subsection (6) of this section;
  - 12 4. Include provisions detailing the duties, responsibilities, and obligations  
 13 of each party in relation to the financing, development, operation, and  
 14 maintenance of the project, and the servicing and retirement of all  
 15 bonds;
  - 16 5. Establish limits on any reserve funds created for operation, maintenance,  
 17 or bond servicing, which shall be at a level to adequately operate and  
 18 maintain the project and ensure proper bond servicing;
  - 19 6. Prohibit the amendment of the project or the financial plan without the  
 20 prior evaluation and approval by the state authority. No amendment shall  
 21 be approved that seeks or purports to bind any future General  
 22 Assembly to appropriate any moneys~~[provides for expected~~  
 23 ~~appropriations by the General Assembly]~~ beyond those appropriated in  
 24 the most recently enacted biennial highway construction plan;
  - 25 7. If applicable, establish a process for the transfer of ownership of the  
 26 portion of the project that is within the Commonwealth to the  
 27 Commonwealth upon retirement of all bonds associated with the project

1 or, if the project utilizes a public-private partnership, upon termination  
2 of that partnership; and

3 8. a. For a bi-state authority, require the approval of a majority of the  
4 members from each state before any action may be taken or any  
5 changes may be made by the bi-state authority; or

6 b. For a public-private partnership, require approval of the cabinet  
7 before any action may be taken or any changes may be made by the  
8 public-private partnership.

9 (b) The parties to the agreement from the Commonwealth shall consult with the  
10 department and the Finance and Administration Cabinet, Office of Financial  
11 Management, in the development of the agreement.

12 (c) Additional agreements may be executed, as necessary to complete the project.

13 (d) The development agreement may take the form of a public-private partnership  
14 agreement.

15 (8) The General Assembly hereby finds and declares that in carrying out the functions,  
16 powers, and duties as prescribed in this chapter, a bi-state authority or public-  
17 private partnership authorized under this section will be performing essential public  
18 and government functions that improve the public welfare and prosperity of the  
19 people of the Commonwealth by promoting the availability of and enhancing  
20 accessibility to improved transportation services within the Commonwealth.

21 (9) The state authority shall not enter into a public-private partnership related to a  
22 project connecting the Commonwealth with the State of Ohio unless the General  
23 Assembly expressly authorizes it by passing a joint resolution.

24 ➔Section 7. KRS 175B.035 is amended to read as follows:

25 (1) Potential projects that are within Kentucky may be developed by a project authority  
26 as provided in this section, or by a public-private partnership as provided in KRS  
27 175B.037.

- 1 (2) A local government that contains a portion of a proposed project may, by resolution  
2 of its governing body, request the state authority to evaluate the establishment of a  
3 project authority or a public-private partnership for the purpose of developing a  
4 project.
- 5 (3) The state authority may request that the department evaluate the proposed project by  
6 preparation of a financial plan evaluating all aspects of the proposed project,  
7 including:
- 8 (a) The most effective location for the project;
  - 9 (b) The impact on local governments and citizens at the location of or along the  
10 path of the project;
  - 11 (c) A detailed analysis of the proposed cost of the project;
  - 12 (d) The potential economic impact to the areas affected by the project;
  - 13 (e) The anticipated level of use of the project;
  - 14 (f) The amount and duration of per-vehicle tolls;
  - 15 (g) Expected appropriations from the General Assembly to be used for the  
16 project; however, no financial plan shall be submitted or approved which  
17 *seeks or purports to bind any future General Assembly to appropriate any*  
18 *moneys*~~[contains expected appropriations by the General Assembly]~~ beyond  
19 those appropriated in the most recently enacted biennial highway construction  
20 plan;
  - 21 (h) The ability of a potential contractor or service provider to quickly respond to  
22 the needs presented in a major transportation project, and the importance of  
23 economic development opportunities represented by the construction of any  
24 project under this chapter. In evaluating proposals, preference shall be given  
25 to a plan that includes the involvement of small businesses as subcontractors,  
26 to the extent that small businesses can provide services in a competitive  
27 manner, unless any preference interferes with the qualification for federal

1 funds;

2 (i) Other sources of funds and expected amounts; and

3 (j) Any other provisions relating to the construction and financing of the project.

4 (4) If, based on the project evaluation prepared pursuant to subsection (3) of this  
5 section, the state authority and the department determine that the development of  
6 the project is economically feasible, the state authority shall submit the proposal to  
7 the General Assembly for ratification. If ratified by the General Assembly, the state  
8 authority may request that the Governor establish a project authority in accordance  
9 with the following:

10 (a) The project authority shall be established as an independent de jure municipal  
11 corporation and political subdivision of the Commonwealth constituting a  
12 governmental agency and instrumentality of the Commonwealth, with the  
13 power to contract and be contracted with, acquire and convey property, sue  
14 and be sued, and exercise all of the usual powers of corporations not  
15 inconsistent with the authority's specifically enumerated purpose and duties;

16 (b) The project authority shall adopt a name that includes the name of the project  
17 and the words "Project Authority";

18 (c) The project authority shall be composed of seven (7) members, three (3) of  
19 whom shall be appointed by the Governor and confirmed by the Senate in  
20 accordance with KRS 11.160, and four (4) of whom shall be appointed by the  
21 chief executive of the local government that requested establishment of the  
22 project authority and confirmed by resolution of the local government's  
23 governing body;

24 (d) Each member of the project authority shall be appointed for a period of four  
25 (4) years, except that in making initial appointments, the Governor shall  
26 appoint members for one (1), three (3), and four (4) years, and the chief  
27 executive shall appoint two (2) members each for two (2) and four (4) years;

1           and

2           (e) At least one (1) of the Governor's appointees and two (2) of the chief  
3           executive's appointees shall be familiar with road and bridge design or  
4           financing and administration of transportation infrastructure projects.

5       (5) (a) Within ninety (90) days of its establishment under subsection (4) of this  
6           section, the project authority shall convene and organize. The project authority  
7           shall elect a chair and a vice chair, who shall be members of the project  
8           authority and elected by a majority of the project authority members. The  
9           project authority shall appoint a secretary and a treasurer who shall not be  
10          members of the project authority, each of whom shall serve at the pleasure of  
11          the project authority and shall receive compensation as determined and paid  
12          by the project authority.

13       (b) The treasurer shall give bond in an amount prescribed by the project authority  
14          to the project authority and the state conditioned upon a faithful accounting  
15          for all the funds coming into the treasurer's custody, with corporate surety  
16          given by a surety company qualified to do business in the state, the premium  
17          of which shall be paid by the project authority.

18       (c) The project authority shall maintain an office, and the secretary of the project  
19          authority shall maintain in that office complete records of all the project  
20          authority's actions and proceedings, which shall be considered open records  
21          under KRS 61.870 to 61.884.

22       (d) A project authority shall comply with the applicable provisions of KRS  
23          Chapter 45A in the development of a project and the procurement of goods  
24          and services.

25       (e) The meetings of a project authority shall be considered open meetings  
26          pursuant to KRS 61.805 to 61.850.

27       (6) A majority of the members of a project authority shall constitute a quorum for the



1 transaction of business. The members of a project authority shall receive no  
2 compensation for their services in that capacity, but shall be entitled to  
3 reimbursement for all reasonable expenses necessarily incurred in connection with  
4 performance of their duties and functions as members.

5 (7) (a) Members of a project authority shall be considered public servants subject to  
6 the provisions of KRS Chapter 11A.

7 (b) The following individuals or entities shall be prohibited from entering into  
8 any contract or agreement with a project authority or a public-private  
9 partnership:

10 1. Any member of a project authority, a bi-state authority, the state  
11 authority, or a public-private partnership;

12 2. Any spouse, child, stepchild, parent, stepparent, or sibling of a member  
13 of a project authority, a bi-state authority, the state authority, or a public-  
14 private partnership; and

15 3. Any corporation, limited liability entity, or other business entity of  
16 which a person identified in subparagraph 1. or 2. of this paragraph is an  
17 owner, a member, a partner, or has any other ownership interest.

18 (8) (a) The state authority shall enter into a development agreement with a project  
19 authority or a public-private partnership to establish the terms and conditions  
20 under which a project will be undertaken. No financial plan shall be submitted  
21 or approved which **seeks or purports to bind any future General Assembly to**  
22 **appropriate any moneys**~~[contains expected appropriations by the General~~  
23 ~~Assembly]~~ beyond those appropriated in the most recently enacted biennial  
24 highway construction plan.

25 (b) The development agreement shall establish the duties, responsibilities, and  
26 powers of the state authority, the project authority, a public-private  
27 partnership, and, as necessary, the cabinet with regard to the project.

- 1 (c) The development agreement shall include, at a minimum, all information  
2 necessary relating to the creation, development, operation, and disposal of the  
3 project. No financial plan shall be submitted or approved which seeks or  
4 purports to bind any future General Assembly to appropriate any  
5 moneys~~[contains expected appropriations by the General Assembly]~~ beyond  
6 those appropriated in the most recently enacted biennial highway construction  
7 plan.
- 8 (d) After the proposed project has been approved and set forth in the development  
9 agreement, it shall not be changed or expanded without evaluation and  
10 approval by the state authority and ratification by the General Assembly.
- 11 (e) Additional agreements may be executed, as necessary, between the state  
12 authority, the project authority, a public-private partnership, the department,  
13 and the cabinet.
- 14 (9) The provisions of this chapter relating to the duties, responsibilities, powers, and  
15 authorities of the state authority shall apply to a project authority or a public-private  
16 partnership to the extent that the duties, responsibilities, powers, and authorities are  
17 required for the project authority or public-private partnership to carry out its duties  
18 and responsibilities under a development agreement.
- 19 (10) Upon retirement of all bonds associated with a project developed under this section  
20 or, if the project utilizes a public-private partnership, upon termination of that  
21 partnership, the ownership of the project shall be transferred to the Commonwealth  
22 pursuant to KRS 175B.095.
- 23 ➔Section 8. Whereas, it is critical for the health, safety, and economic well-being  
24 of the Commonwealth and its citizens to not delay any capital projects, an emergency is  
25 declared to exist and this Act takes effect upon its passage and approval by the Governor  
26 or upon its otherwise becoming a law.