

1 AN ACT relating to state funds.

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

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

5 *(1) As used in this section:*

6 *(a) "Boycott" means to blacklist, divest from, or otherwise refuse to deal with a*
7 *targeted person or business when the action is based on race, color,*
8 *religion, gender, or national origin of the targeted person or business.*

9 *"Boycott" does not mean:*

10 *1. A decision based on business or economic reasons, or the specific*
11 *conduct of a targeted person or business;*

12 *2. A blacklist, divestment, or refusal to deal with a public entity of a*
13 *foreign state when the blacklist, divestment, or refusal is applied in a*
14 *nondiscriminatory manner; or*

15 *3. Conduct necessary to comply with applicable law in the contracting*
16 *person's or business's home jurisdiction; and*

17 *(b) "A jurisdiction with whom Kentucky may enjoy open trade" means World*
18 *Trade Organization members and those with whom the United States has*
19 *free trade or other agreements aimed at ensuring open and*
20 *nondiscriminatory trade relations.*

21 *(2) A governmental body shall not enter into a contract with a person or business*
22 *unless the contract includes a statement that the person or business is not*
23 *currently engaged in, and an agreement that the person or business shall not*
24 *engage in, the boycott of a person or business based in or doing business with a*
25 *jurisdiction with whom Kentucky may enjoy open trade. This subsection shall not*
26 *apply if the contracting person or business offers to provide the goods or services*
27 *for at least twenty percent (20%) less than the apparent successful bidder or*

1 offeror.

2 (3) Failure to comply with this section shall not be grounds to file a protest under
3 KRS 45A.285.

4 ➔SECTION 2. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO
5 READ AS FOLLOWS:

6 (1) In this section:

7 (a) "Companies that boycott Israel" means companies engaging in actions that
8 are politically motivated and are intended to penalize, inflict economic harm
9 on, or otherwise limit commercial relations with the State of Israel,
10 companies based in the State of Israel, or companies in territories
11 controlled by the State of Israel;

12 (b) "Company" means any sole proprietorship, organization, association,
13 corporation, partnership, joint venture, limited partnership, limited liability
14 partnership, limited liability company, or other entity or business
15 association, including wholly owned subsidiaries, majority-owned
16 subsidiaries, parent companies, or affiliates of those entities or business
17 associations;

18 (c) "Iran-restricted company" means a company that has business operations
19 that involve contracts with or provision of supplies or services to the
20 Government of Iran, companies in which the Government of Iran has any
21 direct or indirect equity share, consortiums or projects commissioned by the
22 Government of Iran, or companies involved in consortiums or projects
23 commissioned by the Government of Iran and:

24 1. a. More than ten percent (10%) of the company's revenues
25 produced in or assets located in Iran involve oil-related activities
26 or mineral-extraction activities; and

27 b. Less than seventy-five percent (75%) of the company's revenues

1 produced in or assets located in Iran involve contracts with or
2 provision of oil-related or mineral-extraction products or
3 services to the Government of Iran or a project or consortium
4 created exclusively by that government; or

5 2. The company has, on or after August 5, 1996, made an investment of
6 twenty million dollars (\$20,000,000) or more, or any combination of
7 investments of at least ten million dollars (\$10,000,000) each that in
8 the aggregate equals or exceeds twenty million dollars (\$20,000,000)
9 in any twelve (12) month period, that directly or significantly
10 contributes to the enhancement of Iran's ability to develop petroleum
11 resources of Iran;

12 (d) "Sudan-restricted company" means:

13 1. The government of the Republic of the Sudan or any of its agencies,
14 including political units and subdivisions;

15 2. Any company that is wholly or partially managed or controlled by the
16 government of the Republic of the Sudan or any of its agencies,
17 including political units and subdivisions;

18 3. Any company:

19 a. That is established or organized under the laws of the Republic
20 of the Sudan; or

21 b. Whose principal place of business is in the Republic of the
22 Sudan;

23 4. Any company:

24 a. Identified by the Office of Foreign Assets Control in the United
25 States Department of the Treasury as sponsoring terrorist
26 activities in the Republic of the Sudan; or

27 b. Fined, penalized, or sanctioned by the Office of Foreign Assets

1 Control in the United States Department of the Treasury for any
2 violation of any United States rules and restrictions relating to
3 the Republic of the Sudan that occurred at any time following
4 the effective date of this Act; and

5 5. Any publicly traded company that is individually identified by an
6 independent researching firm that specializes in global security risk as
7 being a company that owns or controls property or assets located in,
8 has employees or facilities located in, provides goods or services to,
9 obtains goods or services from, has distribution agreements with,
10 issues credits or loans to, purchases bonds or commercial paper issued
11 by, or invests in the Republic of the Sudan or any company domiciled
12 in the Republic of the Sudan; and

13 (e) "Restricted companies" means Iran-restricted companies, Sudan-restricted
14 companies, and companies that boycott Israel.

15 (2) By August 1, 2018, the investment committee established in KRS 61.650 shall use
16 its best efforts to identify all restricted companies and assemble those identified
17 companies into a restricted companies list. The committee's best efforts shall
18 include:

19 (a) Reviewing and relying on publicly available information regarding
20 restricted companies, including information provided by nonprofit
21 organizations, research firms, and government entities;

22 (b) Contacting asset managers contracted by the retirement systems that invest
23 in restricted companies;

24 (c) Contacting other institutional investors that have divested from or engaged
25 with restricted companies; and

26 (d) Retaining an independent research firm to identify restricted companies.

27 (3) The investment committee shall review the list of restricted companies on a

1 quarterly basis based on evolving information from the sources in paragraphs (a)
2 to (d) in subsection (2) of this section, and other sources.

3 (4) For companies on the restricted companies list, the investment committee shall
4 take the following actions before applying the restrictions in subsection (5) of this
5 section:

6 (a) For newly identified companies, the investment committee shall send a
7 written notice informing the company of its restricted status and that it may
8 become subject to divestment by the retirement systems; and

9 (b) If, following the written notice in paragraph (a) of this subsection, the
10 company ceases activity that designates the company as a restricted
11 company, the company shall be removed from the list of restricted
12 companies, and the provisions of this section shall cease to apply unless the
13 company resumes such activities.

14 (5) The investment committee shall:

15 (a) Identify those companies on the restricted companies list in which the
16 retirement systems owns direct holdings, indirect holdings, and private
17 market funds;

18 (b) Instruct its investment advisors to sell, redeem, divest, or withdraw all direct
19 holdings of restricted companies from the retirement systems' assets under
20 management in an orderly and fiduciarily responsible manner within twelve
21 (12) months of the companies' most recent appearance on the restricted
22 companies list; and

23 (c) Not acquire securities of companies on the list of restricted companies.

24 (6) The provisions of subsection (5) of this section do not apply to the retirement
25 systems' indirect holdings or private market funds. For indirect holdings or
26 private market funds, the investment committee shall submit letters to the
27 managers of those investment funds containing restricted companies requesting

1 that they consider removing the restricted companies from the fund, or create a
2 similar actively managed fund having indirect holdings devoid of the restricted
3 companies. If the manager creates a similar fund, the investment committee shall
4 replace all applicable investments with investments in the similar fund in an
5 expedited timeframe consistent with prudent investing standards.

6 (7) Upon request, and at least annually, the investment committee shall provide the
7 board of trustees with information regarding investments sold, redeemed,
8 divested, or withdrawn in compliance with this section.

9 (8) Notwithstanding any other provision of this section, the investment committee
10 may cease divesting from restricted companies under subsection (5) of this
11 section if clear and convincing evidence shows that the value of the investments
12 in the restricted companies becomes equal to or less than one-half of one percent
13 (0.5%) of the market value of all assets under management of the investment
14 committee. For any cessation of divestment under this subsection, the investment
15 committee shall provide a written notice to the board of trustees in advance of the
16 cessation of divestment giving the reasons and justification, supported by clear
17 and convincing evidence, for its decision to cease divestment under this section.

18 (9) In complying with this section, the investment committee and the board of
19 trustees shall be exempt from any conflicting statutory or common law
20 obligations, including good-faith determinations, fiduciary duties, and any
21 obligations with respect to choice of asset managers, investment funds, or
22 investments for the systems' portfolios.

23 (10) This section shall not apply to companies based in the United States.

24 ➔SECTION 3. A NEW SECTION OF KRS 21.345 TO 21.510 IS CREATED TO
25 READ AS FOLLOWS:

26 (1) As used in this section:

27 (a) "Companies that boycott Israel" means companies engaging in actions that

1 are politically motivated and are intended to penalize, inflict economic harm
2 on, or otherwise limit commercial relations with the State of Israel,
3 companies based in the State of Israel, or companies in territories
4 controlled by the State of Israel;

5 (b) "Company" means any sole proprietorship, organization, association,
6 corporation, partnership, joint venture, limited partnership, limited liability
7 partnership, limited liability company, or other entity or business
8 association, including wholly owned subsidiaries, majority-owned
9 subsidiaries, parent companies, or affiliates of those entities or business
10 associations;

11 (c) "Iran-restricted company" means a company that has business operations
12 that involve contracts with or provision of supplies or services to the
13 Government of Iran, companies in which the Government of Iran has any
14 direct or indirect equity share, consortiums or projects commissioned by the
15 Government of Iran, or companies involved in consortiums or projects
16 commissioned by the Government of Iran and:

17 1. a. More than ten percent (10%) of the company's revenues
18 produced in or assets located in Iran involve oil-related activities
19 or mineral-extraction activities; and

20 b. Less than seventy-five percent (75%) of the company's revenues
21 produced in or assets located in Iran involve contracts with or
22 provision of oil-related or mineral-extraction products or
23 services to the Government of Iran or a project or consortium
24 created exclusively by that government; or

25 2. The company has, on or after August 5, 1996, made an investment of
26 twenty million dollars (\$20,000,000) or more, or any combination of
27 investments of at least ten million dollars (\$10,000,000) each that in

1 the aggregate equals or exceeds twenty million dollars (\$20,000,000)
2 in any twelve (12) month period, that directly or significantly
3 contributes to the enhancement of Iran's ability to develop petroleum
4 resources of Iran;

5 (d) "Sudan-restricted company" means:

6 1. The government of the Republic of the Sudan or any of its agencies,
7 including political units and subdivisions;

8 2. Any company that is wholly or partially managed or controlled by the
9 government of the Republic of the Sudan or any of its agencies,
10 including political units and subdivisions;

11 3. Any company:

12 a. That is established or organized under the laws of the Republic
13 of the Sudan; or

14 b. Whose principal place of business is in the Republic of the
15 Sudan;

16 4. Any company:

17 a. Identified by the Office of Foreign Assets Control in the United
18 States Department of the Treasury as sponsoring terrorist
19 activities in the Republic of the Sudan; or

20 b. Fined, penalized, or sanctioned by the Office of Foreign Assets
21 Control in the United States Department of the Treasury for any
22 violation of any United States rules and restrictions relating to
23 the Republic of the Sudan that occurred at any time following
24 the effective date of this Act; and

25 5. Any publicly traded company that is individually identified by an
26 independent researching firm that specializes in global security risk as
27 being a company that owns or controls property or assets located in,

1 has employees or facilities located in, provides goods or services to,
2 obtains goods or services from, has distribution agreements with,
3 issues credits or loans to, purchases bonds or commercial paper issued
4 by, or invests in the Republic of the Sudan or any company domiciled
5 in the Republic of the Sudan; and

6 (e) "Restricted companies" means Iran-restricted companies, Sudan-restricted
7 companies, and companies that boycott Israel.

8 (2) By August 1, 2018, the investment committee established in KRS 21.550 shall use
9 its best efforts to identify all restricted companies and assemble those identified
10 companies into a restricted companies list. The committee's best efforts shall
11 include:

12 (a) Reviewing and relying on publicly available information regarding
13 restricted companies, including information provided by nonprofit
14 organizations, research firms, and government entities;

15 (b) Contacting asset managers contracted by the retirement systems that invest
16 in restricted companies;

17 (c) Contacting other institutional investors that have divested from or engaged
18 with restricted companies; and

19 (d) Retaining an independent research firm to identify restricted companies.

20 (3) The investment committee shall review the list of restricted companies on a
21 quarterly basis based on evolving information from the sources in paragraphs (a)
22 to (d) in subsection (2) of this section, and other sources.

23 (4) For companies on the restricted companies list, the investment committee shall
24 take the following actions before applying the restrictions in subsection (5) of this
25 section:

26 (a) For newly identified companies, the investment committee shall send a
27 written notice informing the company of its restricted status and that it may

1 become subject to divestment by the retirement systems; and
2 (b) If, following the written notice in paragraph (a) of this subsection, the
3 company ceases activity that designates the company as a restricted
4 company, the company shall be removed from the list of restricted
5 companies and the provisions of this section shall cease to apply unless the
6 company resumes such activities.

7 (5) The investment committee shall:

8 (a) Identify those companies on the restricted companies list in which the
9 judicial retirement system owns direct holdings, indirect holdings, and
10 private market funds;

11 (b) Instruct its investment advisors to sell, redeem, divest, or withdraw all direct
12 holdings of restricted companies from the judicial retirement system's assets
13 under management in an orderly and fiduciarly responsible manner within
14 twelve (12) months of the companies' most recent appearance on the
15 restricted companies list; and

16 (c) Not acquire securities of companies on the list of restricted companies.

17 (6) The provisions of subsection (5) of this section do not apply to the judicial
18 retirement plan's indirect holdings or private market funds. For indirect holdings
19 or private market funds, the investment committee shall submit letters to the
20 managers of those investment funds containing restricted companies requesting
21 that they consider removing the restricted companies from the fund, or create a
22 similar actively managed fund having indirect holdings devoid of the restricted
23 companies. If the manager creates a similar fund, the investment committee shall
24 replace all applicable investments with investments in the similar fund in an
25 expedited timeframe consistent with prudent investing standards.

26 (7) Upon request, and at least annually, the investment committee shall provide the
27 judicial retirement plan with information regarding investments sold, redeemed,

1 divested, or withdrawn in compliance with this section.

2 (8) Notwithstanding any other provision of this section, the investment committee
3 may cease divesting from restricted companies under subsection (4) of this
4 section if clear and convincing evidence shows that the value of the investments
5 in the restricted companies becomes equal to or less than one-half of one percent
6 (0.5%) of the market value of all assets under management of the investment
7 committee. For any cessation of divestment under this subsection, the investment
8 committee shall provide a written notice to the judicial retirement system in
9 advance of the cessation of divestment giving the reasons and justification,
10 supported by clear and convincing evidence, for its decision to cease divestment
11 under this section.

12 (9) In complying with this section, the investment committee and the judicial
13 retirement plan shall be exempt from any conflicting statutory or common law
14 obligations, including good-faith determinations, fiduciary duties, and any
15 obligations with respect to choice of asset managers, investment funds, or
16 investments for the plan's portfolios.

17 (10) This section shall not apply to companies based in the United States.

18 ➔SECTION 4. A NEW SECTION OF KRS 161.220 TO 161.716 IS CREATED
19 TO READ AS FOLLOWS:

20 (1) As used in this section:

21 (a) "Companies that boycott Israel" means companies engaging in actions that
22 are politically motivated and are intended to penalize, inflict economic harm
23 on, or otherwise limit commercial relations with the State of Israel,
24 companies based in the State of Israel, or companies in territories
25 controlled by the State of Israel;

26 (b) "Company" means any sole proprietorship, organization, association,
27 corporation, partnership, joint venture, limited partnership, limited liability

1 partnership, limited liability company, or other entity or business
2 association, including wholly owned subsidiaries, majority-owned
3 subsidiaries, parent companies, or affiliates of those entities or business
4 associations;

5 (c) "Iran-restricted company" means a company that has business operations
6 that involve contracts with or provision of supplies or services to the
7 Government of Iran, companies in which the Government of Iran has any
8 direct or indirect equity share, consortiums or projects commissioned by the
9 Government of Iran, or companies involved in consortiums or projects
10 commissioned by the Government of Iran and:

11 1. a. More than ten percent (10%) of the company's revenues
12 produced in or assets located in Iran involve oil-related activities
13 or mineral-extraction activities; and

14 b. Less than seventy-five percent (75%) of the company's revenues
15 produced in or assets located in Iran involve contracts with or
16 provision of oil-related or mineral-extraction products or
17 services to the Government of Iran or a project or consortium
18 created exclusively by that government; or

19 2. The company has, on or after August 5, 1996, made an investment of
20 twenty million dollars (\$20,000,000) or more, or any combination of
21 investments of at least ten million dollars (\$10,000,000) each that in
22 the aggregate equals or exceeds twenty million dollars (\$20,000,000)
23 in any twelve (12) month period, that directly or significantly
24 contributes to the enhancement of Iran's ability to develop petroleum
25 resources of Iran;

26 (d) "Sudan-restricted company" means:

27 1. The government of the Republic of the Sudan or any of its agencies,

- 1 including political units and subdivisions;
- 2 2. Any company that is wholly or partially managed or controlled by the
- 3 government of the Republic of the Sudan or any of its agencies,
- 4 including political units and subdivisions;
- 5 3. Any company:
- 6 a. That is established or organized under the laws of the Republic
- 7 of the Sudan; or
- 8 b. Whose principal place of business is in the Republic of the
- 9 Sudan;
- 10 4. Any company:
- 11 a. Identified by the Office of Foreign Assets Control in the United
- 12 States Department of the Treasury as sponsoring terrorist
- 13 activities in the Republic of the Sudan; or
- 14 b. Fined, penalized, or sanctioned by the Office of Foreign Assets
- 15 Control in the United States Department of the Treasury for any
- 16 violation of any United States rules and restrictions relating to
- 17 the Republic of the Sudan that occurred at any time following
- 18 the effective date of this Act; and
- 19 5. Any publicly traded company that is individually identified by an
- 20 independent researching firm that specializes in global security risk as
- 21 being a company that owns or controls property or assets located in,
- 22 has employees or facilities located in, provides goods or services to,
- 23 obtains goods or services from, has distribution agreements with,
- 24 issues credits or loans to, purchases bonds or commercial paper issued
- 25 by, or invests in the Republic of the Sudan or any company domiciled
- 26 in the Republic of the Sudan; and
- 27 (e) "Restricted companies" means Iran-restricted companies, Sudan-restricted

1 companies, and companies that boycott Israel.

2 (2) By August 1, 2018, the board shall use its best efforts to identify all restricted
3 companies and assemble those identified companies into a restricted companies
4 list. The board's best efforts shall include:

5 (a) Reviewing and relying on publicly available information regarding
6 restricted companies, including information provided by nonprofit
7 organizations, research firms, and government entities;

8 (b) Contacting asset managers contracted by the retirement systems that invest
9 in restricted companies;

10 (c) Contacting other institutional investors that have divested from or engaged
11 with restricted companies; and

12 (d) Retaining an independent research firm to identify restricted companies.

13 (3) The board shall review the list of restricted companies on a quarterly basis based
14 on evolving information from the sources in paragraphs (a) to (d) in subsection
15 (2) of this section, and other sources.

16 (4) For companies on the restricted companies list, the board shall take the following
17 actions before applying the restrictions in subsection (5) of this section:

18 (a) For newly identified companies, the board shall send a written notice
19 informing the company of its restricted status and that it may become
20 subject to divestment by the retirement system; and

21 (b) If, following the written notice in paragraph (a) of this subsection, the
22 company ceases activity that designates the company as a restricted
23 company, the company shall be removed from the list of restricted
24 companies, and the provisions of this section shall cease to apply unless the
25 company resumes such activities.

26 (5) The board shall:

27 (a) Identify those companies on the restricted companies list in which the

1 retirement system owns direct holdings, indirect holdings, and private
2 market funds;

3 (b) Instruct its investment advisors to sell, redeem, divest, or withdraw all direct
4 holdings of restricted companies from the retirement systems' assets under
5 management in an orderly and fiduciarily responsible manner within twelve
6 (12) months of the companies' most recent appearance on the restricted
7 companies list; and

8 (c) Not acquire securities of companies on the list of restricted companies.

9 (6) The provisions of subsection (5) of this section do not apply to the retirement
10 system's indirect holdings or private market funds. For indirect holdings or
11 private market funds, the board shall submit letters to the managers of those
12 investment funds containing restricted companies requesting that they consider
13 removing the restricted companies from the fund, or create a similar actively
14 managed fund having indirect holdings devoid of the restricted companies. If the
15 manager creates a similar fund, the board shall replace all applicable investments
16 with investments in the similar fund in an expedited timeframe consistent with
17 prudent investing standards.

18 (7) The board shall annually compile information regarding investments sold,
19 redeemed, divested, or withdrawn in compliance with this section.

20 (8) Notwithstanding any other provision of this section, the board may cease
21 divesting from restricted companies under subsection (5) of this section if clear
22 and convincing evidence shows that the value of the investments in the restricted
23 companies becomes equal to or less than one-half of one percent (0.5%) of the
24 market value of all assets under management of the board.

25 (9) In complying with this section, the board shall be exempt from any conflicting
26 statutory or common law obligations, including good faith determinations,
27 fiduciary duties, and any obligations with respect to choice of asset managers,

1 *investment funds, or investments for the system's portfolios.*

2 *(10) This section shall not apply to companies based in the United States.*

3 ➔Section 5. KRS 6.525 is amended to read as follows:

4 The Legislators' Retirement Plan shall be governed by KRS 21.560, *Section 2 of this Act,*
5 and by provisions identical in terms with those provided in KRS 21.345(1), 21.345(3) to
6 (6), 21.357, 21.360(1), 21.370 to 21.410, 21.374, 21.420, 21.425, 21.450, 21.460, 21.470,
7 21.480, 21.525, 21.540, and 61.552 for the Judicial Retirement Plan, except that:

8 (1) Five (5) years of service as a legislator will be sufficient for vesting; and

9 (2) (a) A member of the Legislators' Retirement Plan may combine his service credit
10 with his service credit in the Teachers' Retirement System, Kentucky
11 Employees Retirement System, County Employees Retirement System, and
12 State Police Retirement System at the time of his retirement, according to the
13 procedure of KRS 61.680(2)(a), except that the salary used to determine final
14 compensation, if applicable, shall be based on the creditable compensation in
15 KRS 61.510(13) for service while a member of the General Assembly whether
16 or not a member of the Legislators' Retirement Plan.

17 (b) For members contributing on or after June 20, 2005 but prior to January 1,
18 2014: Upon retirement, a member's accounts under the Legislators' Retirement
19 Plan, State Police Retirement System, Kentucky Employees Retirement
20 System, County Employees Retirement System, and Teachers' Retirement
21 System shall be consolidated for the purpose of determining eligibility and
22 amount of benefits as provided in KRS 61.680(2)(a) and in the same manner
23 as for the other retirement systems using the highest salary regardless of the
24 system in which it was earned. For purposes of this paragraph, "retirement"
25 means the month in which the member elects to begin receiving benefits or
26 benefits become payable due to the member's death.

27 (c) A member who has an account in the Legislators' Retirement Plan and the

1 Judicial Retirement Plan may combine his service in both plans for purposes
2 of determining:

- 3 1. Eligibility and the amount of benefits; and
- 4 2. Final compensation, provided the member began participating in the
5 Legislators' Retirement Plan prior to January 1, 2014.

6 (d) A member who began participating in the Legislators' Retirement Plan prior to
7 January 1, 2014, may retire at the completion of twenty-seven (27) or more
8 years of combined service credit, so long as at least fifteen (15) years of such
9 credit were earned after January 1, 1960, and there shall be no reduction in the
10 retirement allowance because of retirement before the age of sixty-five (65).

11 (e) For the purposes of this section, any reference in the KRS sections listed
12 above to the Judicial Retirement Plan shall also be read as a reference to the
13 Legislators' Retirement Plan, and any reference to the Legislators' Retirement
14 Plan shall also be read as a reference to the Judicial Retirement Plan.

15 (3) Any other statute to the contrary notwithstanding, a member of any state-
16 administered retirement system who has ceased to qualify for membership but
17 subsequently returns to a qualified status, shall, for the purposes of determining the
18 date of entry into the state-administered retirement system for the subsequent period
19 or periods of service, be deemed to have never left the retirement system.

20 ➔Section 6. KRS 45A.343 is amended to read as follows:

21 (1) Any local public agency may adopt the provisions of KRS 45A.345 to 45A.460. No
22 other statutes governing purchasing shall apply to a local public agency upon
23 adoption of these provisions.

24 (2) After July 15, 1994, any contract entered into by a local public agency, whether
25 under KRS 45A.345 to 45A.460 or any other authority, shall require the contractor
26 and all subcontractors performing work under the contract to:

27 (a) Reveal any final determination of a violation by the contractor or

1 subcontractor within the previous five (5) year period pursuant to KRS
 2 Chapters 136, 139, 141, 337, 338, 341, and 342 that apply to the contractor or
 3 subcontractor; and

4 (b) Be in continuous compliance with the provisions of KRS Chapters 136, 139,
 5 141, 337, 338, 341, and 342 that apply to the contractor or subcontractor for
 6 the duration of the contract.

7 (3) A contractor's failure to reveal a final determination of a violation by the contractor
 8 of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 or to comply with these
 9 statutes for the duration of the contract shall be grounds for the local public
 10 agency's:

11 (a) Cancellation of the contract; and

12 (b) Disqualification of the contractor from eligibility for future contracts awarded
 13 by the local public agency for a period of two (2) years.

14 (4) A subcontractor's failure to reveal a final determination of a violation by the
 15 subcontractor of KRS Chapters 136, 139, 141, 337, 338, 341, and 342 or to comply
 16 with these statutes for the duration of the contract shall be grounds for the local
 17 public agency's disqualification of the subcontractor from eligibility for future
 18 contracts for a period of two (2) years.

19 **(5) Section 1 of this Act shall apply to all local public agency contracts.**

20 ➔Section 7. KRS 65.027 is amended to read as follows:

21 (1) As used in this section, "local government" means city, county, urban-county,
 22 consolidated local government, charter county, unified local government, or special
 23 district.

24 (2) For all contracts awarded by a local government, the local government shall apply:

25 **(a) The reciprocal preference for resident bidders described in KRS 45A.494; and**

26 **(b) The requirements of Section 1 of this Act.**

27 ➔Section 8. KRS 160.303 is amended to read as follows:

1 For all contracts awarded by a local board of education, the board shall apply:

2 (1) The reciprocal preference for resident bidders described in KRS 45A.494; and

3 (2) *The requirements of Section 1 of this Act.*

4 ➔Section 9. KRS 164A.575 is amended to read as follows:

5 (1) The governing boards of each institution may elect to purchase interest in real
6 property, contractual services, rentals of all types, supplies, materials, equipment,
7 printing, and services, except that competitive bids may not be required for:

8 (a) Contractual services where no competition exists;

9 (b) Food, clothing, equipment, supplies, or other materials to be used in
10 laboratory and experimental studies;

11 (c) Instructional materials available from only one (1) source;

12 (d) Where rates are fixed by law or ordinance;

13 (e) Library books;

14 (f) Commercial items that are purchased for resale;

15 (g) Professional, technical, scientific, or artistic services, but contracts shall be
16 submitted in accordance with KRS 45A.690 to 45A.725;

17 (h) All other commodities, equipment, and services which, in the reasonable
18 discretion of the board, are available from only one (1) source; and

19 (i) Interests in real property.

20 (2) Nothing in this section shall deprive the boards from negotiating with vendors who
21 maintain a General Services Administration price agreement with the United States
22 of America or any agency thereof, provided, however, that no contract executed
23 under this provision shall authorize a price higher than is contained in the contract
24 between General Services Administration and the vendor affected.

25 (3) The governing board shall require the institution to take and maintain inventories of
26 plant and equipment.

27 (4) The governing board shall establish procedures to identify items of common general

1 usage among all departments to foster volume purchasing. It shall establish and
2 enforce schedules for purchasing supplies, materials, and equipment.

3 (5) The governing board shall have power to salvage, to exchange, and to condemn
4 supplies, equipment, and real property.

5 (6) Upon the approval of the secretary of the Finance and Administration Cabinet, the
6 governing board may purchase or otherwise acquire all real property determined to
7 be needed for the institution's use. The amount paid shall not exceed the appraised
8 value as determined by a qualified appraiser or the value set by the eminent domain
9 procedure. Any real property acquired under this section shall be in name of the
10 Commonwealth for the use and benefit of the institution.

11 (7) The governing board shall sell or otherwise dispose of all real or personal property
12 of the institution which is not needed or has become unsuitable for public use, or
13 would be more suitable consistent with the public interest for some other use, as
14 determined by the board. The determination of the board shall be set forth in an
15 order, and shall be reached only after review of a written request by the institution
16 desiring to dispose of the property. Such request shall describe the property and
17 state the reasons why the institution believes disposal should be effected. All
18 instruments required by law to be recorded which convey any interest in any such
19 real property so disposed of shall be executed and signed by the appropriate officer
20 of the board. Unless the board deems it in the best interest of the institution to
21 proceed otherwise, all such real or personal property shall be sold either by
22 invitation of sealed bids or by public auction; provided, however, that the selling
23 price of any interest in real property shall not be less than the appraised value
24 thereof as determined by the Finance and Administration Cabinet or the
25 Transportation Cabinet for such requirements of that department.

26 (8) Real property or any interest therein may, subject to the provisions of KRS Chapter
27 45A, be purchased, leased, or otherwise acquired from any officer or employee of

1 any board of the institution, based upon a written application by the grantor or
2 lessor approved by the board, that the employee has not either himself or through
3 any other person influenced or attempted to influence either the board requesting the
4 purchase of the property. In any case in which such an acquisition is consummated,
5 the said request and finding shall be recorded and kept by the Secretary of State
6 along with the other documents recorded pursuant to the provisions of KRS Chapter
7 56.

8 (9) (a) As used in this section, "construction manager-agency," "construction
9 management-at-risk," "design-bid-build," "design-build," and "construction
10 manager-general contractor" shall have the same meaning as in KRS 45A.030.

11 (b) For capital construction projects, the procurement may be on a total design-
12 bid-build basis, a design-build basis, construction manager-general contractor
13 basis, or construction management-at-risk basis, whichever in the judgment of
14 the board offers the best value to the taxpayer. Best value shall be determined
15 in accordance with KRS 45A.070. Proposals shall be reviewed by the
16 institution's engineering staff to assure quality and value, and compliance with
17 procurement procedures. All specifications shall be written to promote
18 competition. Services for projects delivered on the design-build basis,
19 construction manager-general contractor basis, or construction management-
20 at-risk basis shall be procured in accordance with KRS 45A.180, KRS
21 45A.183, and the regulations promulgated in accordance with KRS 45A.180.
22 Nothing in this section shall prohibit the procurement of construction
23 manager-agency services.

24 (10) The governing board shall attempt in every practicable way to insure the
25 institution's supplying its real needs at the lowest possible cost. To accomplish this
26 the board may enter into cooperative agreements with other public or private
27 institutions of education or health care.

- 1 (11) The governing board shall have control and supervision over all purchases of energy
2 consuming equipment, supplies, and related equipment purchased or acquired by
3 the institution, and shall designate by regulation the manner in which an energy
4 consuming item will be purchased so as to promote energy conservation and
5 acquisition of energy efficient products.
- 6 (12) The governing board may negotiate directly for the purchase of contractual services,
7 supplies, materials, or equipment in bona fide emergencies regardless of estimated
8 costs. The existence of the emergency must be fully explained, in writing, by the
9 vice president responsible for business affairs and such explanation must be
10 approved by the university president. The letter and approval shall be filed with the
11 record of all such purchases. Where practical, standard specifications shall be
12 followed in making emergency purchases. A good faith effort shall be made to
13 effect a competitively established price for emergency purchases.
- 14 (13) (a) All governing boards that purchase agricultural products, as defined by KRS
15 45A.630, shall, on or before January 1 of each year, provide a report to the
16 Legislative Research Commission and to the Department of Agriculture
17 describing the types, quantities, and costs of each product purchased. The
18 report shall be completed on a form provided by the department.
- 19 (b) If purchasing agricultural products, a governing board shall encourage the
20 purchase of Kentucky-grown agricultural products in accordance with KRS
21 45A.645. If a governing board purchases agricultural products through a
22 contract with a vendor or food service provider, the contract shall require that
23 if Kentucky-grown agricultural products are purchased, the products shall be
24 purchased in accordance with KRS 45A.645. Only contracts entered into or
25 renewed after July 15, 2008, shall be required to comply with the provisions
26 of this subsection.
- 27 (c) All governing boards that purchase Kentucky-grown agricultural products

1 shall, on or before January 1 of each year, provide a report to the Legislative
2 Research Commission and to the Department of Agriculture describing the
3 types, quantities, and costs of each product purchased. The report shall be
4 completed on a form provided by the department.

5 (14) Governing boards shall apply the reciprocal resident bidder preference described in
6 KRS 45A.494 **and the requirements of Section 1 of this Act** prior to the award of
7 any contract.

8 (15) Governing boards may authorize the use of reverse auctions as defined in KRS
9 45A.070 for the procurement of goods and leases.

10 ➔Section 10. KRS 176.070 is amended to read as follows:

11 (1) After surveys, plans, specifications and estimates have been completed for any road
12 or section thereof, and the type and character of the road has been determined, and
13 the right-of-way obtained, the bureau shall advertise by publication pursuant to KRS
14 Chapter 424, for bids on the work, and may contract for the purchase of all
15 materials necessary for the construction and maintenance of roads.

16 (2) Before advertising for bids for the construction or reconstruction of any highway,
17 the department may determine the type of improvement desired, and may advertise
18 and receive bids for only the types determined. The advertisement shall make it
19 generally known that the work is to be done, and shall state the place where the
20 bidders may examine the plans and specifications.

21 **(3) Invitations for bids shall include the requirements of Section 1 of this Act.**

22 ➔Section 11. KRS 424.260 is amended to read as follows:

23 (1) Except where a statute specifically fixes a larger sum as the minimum for a
24 requirement of advertisement for bids, no city, county, or district, or board or
25 commission of a city or county, or sheriff or county clerk, may make a contract,
26 lease, or other agreement for materials, supplies except perishable meat, fish, and
27 vegetables, equipment, or for contractual services other than professional, involving

1 an expenditure of more than twenty thousand dollars (\$20,000) without first making
2 newspaper advertisement for bids. This subsection shall not apply to the transfer of
3 property between governmental agencies as authorized in KRS 82.083(4)(a).

4 (2) If the fiscal court requires that the sheriff or county clerk advertise for bids on
5 expenditures of less than twenty thousand dollars (\$20,000), the fiscal court
6 requirement shall prevail.

7 (3) (a) Nothing in this statute shall limit or restrict the ability of a local school district
8 to acquire supplies and equipment outside of the bidding procedure if those
9 supplies and equipment meet the specifications of the contracts awarded by
10 the Office of Material and Procurement Services in the Office of the
11 Controller within the Finance and Administration Cabinet or a federal, local,
12 or cooperative agency and are available for purchase elsewhere at a lower
13 price. A board of education may purchase those supplies and equipment
14 without advertising for bids if, prior to making the purchases, the board of
15 education obtains certification from the district's finance or purchasing officer
16 that the items to be purchased meet the standards and specifications fixed by
17 state price contract, federal (GSA) price contract, or the bid of another school
18 district whose bid specifications allow other districts to utilize their bids, and
19 that the sales price is lower than that established by the various price contract
20 agreements or available through the bid of another school district whose bid
21 specifications would allow the district to utilize their bid.

22 (b) The procedures set forth in paragraph (a) of this subsection shall not be
23 available to the district for any specific item once the bidding procedure has
24 been initiated by an invitation to bid and a publication of specifications for
25 that specific item has been published. In the event that all bids are rejected, the
26 district may again avail itself of the provisions of paragraph (a) of this
27 subsection.

- 1 (4) This requirement shall not apply in an emergency if the chief executive officer of
2 the city, county, or district has duly certified that an emergency exists, and has filed
3 a copy of the certificate with the chief financial officer of the city, county, or
4 district, or if the sheriff or the county clerk has certified that an emergency exists,
5 and has filed a copy of the certificate with the clerk of the court where his necessary
6 office expenses are fixed pursuant to KRS 64.345 or 64.530, or if the
7 superintendent of the board of education has duly certified that an emergency exists,
8 and has filed a copy of the certificate with the chief state school officer.
- 9 (5) The provisions of subsection (1) of this section shall not apply for the purchase of
10 wholesale electric power for resale to the ultimate customers of a municipal utility
11 organized under KRS 96.550 to 96.900.
- 12 **(6) Section 1 of this Act shall apply to contracts described in subsection (1) of this**
13 **section.**