

1 AN ACT relating to financing of school building projects.

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

3 ➔Section 1. KRS 160.160 is amended to read as follows:

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

19 (2) ***In acquiring, constructing, or renovating***~~No board of education shall participate~~  
20 ~~in any financing of~~ school buildings, school improvements, appurtenances thereto,  
21 or furnishing and equipment, including education technology equipment, ***a board of***  
22 ***education shall establish the***~~[without]:~~

23 (a) ~~[First establishing the ]~~Cost of the project~~[in advance of financing,]~~ based on  
24 ***the estimates of the architects or engineers who prepared the plans and***  
25 ***specifications or*** the receipt of advertised, public, and competitive bids for  
26 ***the***~~[such]~~ project, in accordance with KRS Chapter 424; and

27 (b) ~~[Establishing the ]~~***Estimated*** cost of financing ***and debt service***~~[in advance of~~

1           ~~the sale~~ of any bonds, certificates of participation in any leases, or other  
2           evidences of financial commitments ***to be*** issued by or on behalf of ~~the~~~~[such]~~  
3           board. Any bonds, leases, participations, or other financial arrangements shall  
4           ***be sold***~~[not involve a final commitment of the board until the purchaser or~~  
5           ~~lender involved shall have been determined by public advertising]~~ in  
6           accordance with KRS Chapter 424.

7       (3) No board of education shall make a mortgage, lien, or other encumbrance upon any  
8       school building owned by the board, or transfer title to any such school building as  
9       part of any financing arrangement, without the specific approval of the Department  
10      of Education, and without the transaction being entered into pursuant to a detailed  
11      plan or procedure specifically authorized by Kentucky statute.

12     (4) Without the approval of the Department of Education, no board may lease, as  
13     lessee, a building or public facility that has been or is to be financed at the request  
14     of the board or on its behalf through the issuance of bonds, ***leases, certificates of***  
15     ***participation***~~[ by another public body or by a nonprofit corporation serving as an~~  
16     ~~agency and instrumentality of the board, or by a leasing corporation. Any lease,~~  
17     ~~participation], or other financial arrangement[ shall not involve a final commitment~~  
18     ~~of the board] unless and until the purchaser or lender involved in same shall have~~  
19     ~~been determined by public advertising[ in accordance with KRS Chapter 424. No~~  
20     ~~transaction shall be entered into by the board except upon the basis of public~~  
21     ~~advertising]~~ and competitive bidding in accordance with KRS Chapter 424.

22     (5) Rental payments due by a board under a lease approved by the Department of  
23     Education in accordance with subsection (4) of this section shall be due and payable  
24     not less than ten (10) days prior to the interest due date for the bonds, notes, or other  
25     debt obligations issued to finance the building or public facility. If a board fails to  
26     make a rental payment when due under a lease, upon notification to the Department  
27     of Education by the paying agent, bond registrar, or trustee for the bonds not less

1 than three (3) days prior to the interest due date, the Department of Education shall  
2 withhold or intercept any funds then due the board to the extent of the amount of the  
3 required payment on the bonds and remit the amount to the paying agent, bond  
4 registrar, or trustee as appropriate. Thereafter, the Department of Education shall  
5 resolve the matter with the board and adjust remittances to the board to the extent of  
6 the amount paid by the Department of Education on the board's behalf.

7 (6) Bonds, notes or leases negotiated to provide education technology shall not be sold  
8 for longer than seven (7) years or the useful life of the equipment as established by  
9 the state technology master plan, whichever is less.

10 ➔Section 2. KRS 162.160 is amended to read as follows:

11 (1) When any city desires to construct a school building, under the provisions of KRS  
12 162.150, the governing body of the city shall, by ordinance, cause plans and  
13 specifications for the building to be duly made and filed in the office of the city  
14 clerk. The plans and specifications shall give a full description of the building to be  
15 constructed, the details thereof and the manner of construction. The plans and  
16 specifications shall be prepared by an architect selected by the city and approved by  
17 the board of education of the school district, and shall be submitted to the board of  
18 education of the school district and to the chief state school officer for approval.

19 (2) If the plans and specifications are approved by ~~[, and if ]~~ the board of education of  
20 the school district and the chief state school officer ~~[offers to lease the building~~  
21 ~~under a lease of the kind provided in KRS 162.140]~~, the city governing body shall  
22 cause the city clerk to advertise for bids, and thereafter the city governing body,  
23 through the mayor, may contract for the construction of the building.

24 ➔Section 3. KRS 162.170 is amended to read as follows:

25 For the purpose of defraying the cost of constructing or acquiring any school buildings  
26 and appurtenances for common school purposes under the provisions of KRS 162.150,  
27 any city may borrow money and issue negotiable revenue bonds. ~~[No]~~ Bonds for common

1 school purposes ~~may~~<sup>shall</sup> be issued ***if***:  
2 **(1)** ~~until~~ The conditions of KRS 162.160**(1)** have been complied with;~~;~~ and  
3 **(2)** ~~until~~ Authorized by an ordinance specifying the proposed undertaking, the  
4 amount of bonds to be issued, and the maximum rate of interest the bonds are to  
5 bear. The ordinance shall further provide that the buildings and appurtenant  
6 facilities are to be constructed or acquired under the provisions of KRS 162.150 to  
7 162.280.