

1 AN ACT relating to school district buildings.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 162 IS CREATED TO
4 READ AS FOLLOWS:

5 *For the purpose of defraying the cost of constructing or acquiring any school buildings*
6 *and appurtenances for common school purposes, any school district may issue a*
7 *general obligation bond or obtain a bank loan.*

8 ➔Section 2. KRS 157.611 is amended to read as follows:

- 9 (1) By establishing the School Facilities Construction Commission, the General
10 Assembly expresses its commitment to help local districts meet the school
11 construction needs and the education technology needs of the state in a manner
12 which will insure an equitable distribution of funds based on unmet facilities need
13 and the total implementation of the Kentucky Education Technology System.
- 14 (2) The commission is empowered to act on behalf of school districts to issue bonds in
15 the name of the commission and to enter into lease agreements with local boards of
16 education to finance construction of new facilities, major renovation of existing
17 school facilities. The commission is also empowered to enter into agreements which
18 may provide for a percentage discount, on a biennially renewable basis, of annual
19 lease agreements due the commission for those districts which participate. The
20 commission is also empowered to enter into lease agreements with the Department
21 of Education to build state-owned facilities operated by the Department of
22 Education or to purchase or lease education technology equipment and related
23 software identified in the technology master plan for those facilities or the
24 Department of Education.
- 25 (3) The commission shall assist local school boards meet their education technology
26 needs by distributing state funds appropriated for this purpose and by assisting
27 school boards to design efficient finance plans for the bonding, purchase or lease of

1 education technology equipment and related software identified in the technology
2 master plan.

3 (4) The commission shall administer two (2) separate programs: the school
4 construction funding program and the education technology funding program.
5 Funds appropriated for each program shall be maintained, administered, and audited
6 separately.

7 (5) Nothing in KRS 157.611 to 157.640 shall prohibit a school district from issuing
8 bonds, **including general obligation bonds**, in accordance with KRS Chapter 162.

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

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

25 (2) No board of education shall participate in any financing of school buildings, school
26 improvements, appurtenances thereto, or furnishing and equipment, including
27 education technology equipment without:

- 1 (a) First establishing the cost of the project in advance of financing, based on the
2 receipt of advertised, public, and competitive bids for such project, in
3 accordance with KRS Chapter 424; and
- 4 (b) Establishing the cost of financing in advance of the sale of any bonds,
5 certificates of participation in any leases, or other evidences of financial
6 commitments issued by or on behalf of such board. Any bonds, leases,
7 participations, or other financial arrangements shall not involve a final
8 commitment of the board until the purchaser or lender involved shall have
9 been determined by public advertising in accordance with KRS Chapter 424.
- 10 (3) No board of education shall make a mortgage, lien, or other encumbrance upon any
11 school building owned by the board, or transfer title to any such school building as
12 part of any financing arrangement, without the specific approval of the Department
13 of Education, and without the transaction being entered into pursuant to a detailed
14 plan or procedure specifically authorized by Kentucky statute.
- 15 (4) Without the approval of the Department of Education, no board may lease, as
16 lessee, a building or public facility that has been or is to be financed at the request
17 of the board or on its behalf through the issuance of bonds by another public body
18 or by a nonprofit corporation serving as an agency and instrumentality of the board,
19 or by a leasing corporation. Any lease, participation, or other financial arrangement
20 shall not involve a final commitment of the board unless and until the purchaser or
21 lender involved in same shall have been determined by public advertising in
22 accordance with KRS Chapter 424. No transaction shall be entered into by the
23 board except upon the basis of public advertising and competitive bidding in
24 accordance with KRS Chapter 424.
- 25 (5) **Without the approval of the Department of Education, no school district may**
26 **issue general obligation bonds or obtain a bank loan. General obligation bonds**
27 **shall be entered into upon the basis of public advertising and competitive bidding**

1 *in accordance with KRS Chapter 424.*

2 **(6)** Rental payments due by a board under a lease approved by the Department of
3 Education in accordance with subsection (4) of this section, *and debt service*
4 *payments under a general obligation bond issue approved by the Department of*
5 *Education in accordance with this section,* shall be due and payable not less than
6 ten (10) days prior to the interest due date for the bonds, notes, or other debt
7 obligations issued to finance the building or public facility. If a board fails to make
8 a rental payment when due under a lease *or a debt service payment when due for a*
9 *general obligation bond issue,* upon notification to the Department of Education by
10 the paying agent, bond registrar, or trustee for the bonds not less than three (3) days
11 prior to the interest due date, the Department of Education shall withhold or
12 intercept any funds then due the board to the extent of the amount of the required
13 payment on the bonds and remit the amount to the paying agent, bond registrar, or
14 trustee as appropriate. Thereafter, the Department of Education shall resolve the
15 matter with the board and adjust remittances to the board to the extent of the
16 amount paid by the Department of Education on the board's behalf.

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

20 ~~**(8)**~~ Notwithstanding any requirements of public advertising, competitive bidding,
21 or approval by the Department of Education, or any administrative regulation
22 promulgated pursuant to KRS 156.160(1)(o), a local board may authorize the
23 transfer or sale of the district's real or personal property to another governmental or
24 quasi-governmental agency in exchange for money or a similar type of property that
25 equals or exceeds the fair market value of the district property as determined by an
26 independent appraisal conducted by:

27 (a) An individual or organization not affiliated with the district or its officers or

1 employees, using a generally accepted national or professional standard; or

2 (b) A district's officers or employees using a nationally published valuation of
3 property based on the most recent edition of the publication.

4 ➔Section 4. KRS 157.627 is amended to read as follows:

5 In connection with each bond issue of the commission as defined in KRS 157.615(3), it
6 shall be the duty of the commission:

7 (1) To require the district board of education to insure the project to its full insurable
8 value, or to the amount of the bonds outstanding from time to time, whichever is the
9 less, against the hazards covered by the standard fire insurance policy with standard
10 endorsement of "extended coverage," and to require that a copy of each policy be
11 delivered to the commission for inspection and for its records;

12 (2) To require periodic accounting from all depositories of funds, the same to be
13 submitted on forms prepared and supplied by the commission;

14 (3) To furnish to the certified public accountant auditing the district, summary
15 identification and description of each issue, and to request that the financial records
16 of the board of education relating thereto be audited as a part of the annual audit of
17 the board of education, and that a separate statement or report thereof be filed with
18 the commission;

19 (4) To send to each board of education at least thirty (30) days before the due date of
20 any debt service or rental payment a notice of the amount of debt service or rental
21 to become due and the date thereof, and to require acknowledgment thereof; and

22 (5) To receive from the board of education, satisfactory evidence that sufficient funds
23 have been transmitted to the commission or its agent, or will be so transmitted, in
24 the event of the board's failure to pay debt service and administrative costs when
25 due, as provided in the indenture or lease, to notify and request that the department
26 withhold from the board of education a sufficient portion of any undisbursed funds
27 then held or set aside or allocated to it, and to request that the department transfer

1 the required amount thereof to the commission for the account of the board of
2 education.

3 ➔Section 5. KRS 304.48-250 is amended to read as follows:

- 4 (1) If the assets of a liability self-insurance group are at any time insufficient to enable
5 the group to discharge its legal liabilities, other obligations, and to maintain the
6 required reserves under this subtitle, the group shall immediately levy an
7 assessment upon its members for the amount necessary to make up the deficiency.
- 8 (2) If there is a deficiency in any fund year, the deficiency shall be made up
9 immediately, from the following:
- 10 (a) Surplus from a fund year other than the current fund year after prior notice of
11 the transfer has been given to the commissioner;
- 12 (b) Administrative funds;
- 13 (c) Assessment of membership; or
- 14 (d) Alternate methods as the commissioner may direct or approve.
- 15 (3) If a liability self-insurance group fails to assess its members within thirty (30) days
16 to make up a deficit, the commissioner shall order it to do so. This subsection shall
17 not apply to liability self-insurance groups formed by governmental entities which
18 do not have joint and several liability.
- 19 (4) If a liability self-insurance group fails to make the required assessment of its
20 members within thirty (30) days after the commissioner orders it to do so, or if the
21 deficiency is not fully made up within sixty (60) days after the date on which the
22 assessment is made, or within a longer period of time as may be permitted by the
23 commissioner, the group shall be determined to be insolvent and may be placed in
24 delinquency proceedings as an insurer pursuant to Subtitle 33 of this chapter.
- 25 (5) (a) Governmental entities that:
- 26 1. Participate or have participated in a liability self-insurance group
27 authorized by this subtitle; and

- 1 2. Are assessed by the liability self-insurance group to cover an accrued
2 deficit;
3 may finance the payment of the assessment over a period not to exceed twenty
4 (20) years.
- 5 (b) Financing obtained pursuant to paragraph (a) of this subsection may be
6 accomplished by:
- 7 1. The issuance of bonds, notes, or other obligations; or
8 2. A lease, installment payment agreement, or other similar agreement.
- 9 (c) If the governmental entity fails to make a scheduled payment on the financing
10 obtained pursuant to paragraph (a) of this subsection, any payments due to
11 that governmental entity shall be withheld or intercepted using the process
12 established in KRS 160.160~~(6)~~~~(5)~~.
- 13 (6) Except as provided in subsection (5) of this section, all other provisions of the
14 Kentucky Revised Statutes applying to any financing obtained by a governmental
15 entity shall apply.
- 16 ➔Section 6. KRS 304.50-055 is amended to read as follows:
- 17 (1) As used in this section, "nationally recognized statistical rating organization" or
18 "NRSRO" means a credit rating agency approved by the United States Securities
19 and Exchange Commission to provide assessments of the creditworthiness of
20 financial instruments.
- 21 (2) A workers' compensation self-insured group shall establish plans for premium
22 payment, determination and collection of assessments, and for declaration and
23 payment of dividends or other disbursements, which shall be filed for prior
24 approval with the commissioner. Any change in the plans for premium payment,
25 assessments, or dividends shall be filed for prior approval with the commissioner.
26 Approval of plans for assessments and dividends does not constitute approval of
27 any particular assessment or dividend by the commissioner.

- 1 (3) Prior to the inception of each group member's self-insurance year, the trustees shall
2 collect from that member at least twenty-five percent (25%) of the estimated
3 premium for the ensuing year, except that in the case of a self-insured group formed
4 by governmental entities twenty-five percent (25%) of the estimated premium for
5 the ensuing year shall be collected no later than thirty (30) days after the beginning
6 of the self-insured group's self-insurance year. The balance of the estimated
7 premium shall be collected in either quarterly or monthly installments as set forth in
8 the enabling documents described in KRS 304.50-030(2)(b) or 304.50-060(2)(b).
9 Each group member's payroll shall be audited annually and an adjustment to
10 premium shall be made accordingly.
- 11 (4) A disbursement from a workers' compensation self-insured group fund shall be for
12 a purpose related to the self-insured group. A dividend shall not be approved or
13 paid until at least thirty-six (36) months after the expiration of the self-insurance
14 year and shall be paid from surplus funds not required for payment of claims or
15 other liabilities. The dividends shall be paid or credited to members according to the
16 reasonable classifications the trustees may establish. A dividend shall not be paid
17 which unfairly discriminates between members of the same classifications. A
18 dividend plan shall specify whether past group members are eligible for the
19 dividend. Payment of a dividend under a dividend plan shall not be made unless the
20 self-insured group has notified the commissioner of its intent to make a dividend
21 payment at least thirty (30) days prior to the payment, and the commissioner has not
22 disapproved the payment within that time.
- 23 (5) The formula to be used for collection of assessments shall be determined by the
24 trustees and approved by the commissioner. Assessments shall be fair and equitable
25 and shall not unfairly discriminate between members of the same classification.
- 26 (6) A trustee, fiscal agent, or service organization shall not utilize an asset of the self-
27 insured group for a purpose unrelated to workers' compensation. The trustees shall

1 maintain cash or cash equivalent accounts as may be prudently necessary to pay
2 expenses without having to liquidate long-term investments.

3 (7) The trustees may invest funds in:

4 (a) United States Government bonds, United States Treasury notes, Treasury
5 bills, or other direct obligations guaranteed by the full faith and credit of the
6 United States Government or its agencies;

7 (b) Tax exempt and taxable obligations issued by any state or any of its agencies,
8 counties, cities, municipalities, districts, political subdivisions, or other legal
9 authorities within the United States of America with a minimum rating of
10 "BBB" by any NRSRO, except that no less than fifty percent (50%) of the
11 investments made under this paragraph shall be in obligations issued by the
12 Commonwealth, its agencies, or a county, city district, municipality, political
13 subdivision, or other legal authority within the Commonwealth;

14 (c) Investment share accounts in a savings and loan association in the
15 Commonwealth whose deposits are insured by a federal agency;

16 (d) Certificates of deposit if issued by a duly chartered commercial bank;

17 (e) 1. At the time of purchase, equity securities actively traded on the New
18 York or NASDAQ Stock Exchanges or other registered national
19 securities exchanges with no individual equity holding comprising
20 greater than ten percent (10%) of the equity portion of the portfolio
21 reflected on the most recent quarterly or annual statement of financial
22 condition on file with the commissioner.

23 2. An investment in an individual equity holding shall not represent at the
24 time of purchase more than five percent (5%) of the total market value
25 of the security.

26 3. At the time of purchase, investments in equity securities shall not exceed
27 twenty percent (20%) of the total market value of the investment

1 portfolio of the self-insured group reflected on the most recent quarterly
2 or annual statement of financial condition on file with the commissioner;

3 (f) Corporate bonds if:

4 1. The bond is issued, assumed, or guaranteed by a solvent institution
5 created or existing under the laws of the United States, or a state,
6 province, district, or territory;

7 2. At the time of purchase, the corporate bond investments do not exceed
8 twenty-five percent (25%) of the total market value of the investment
9 portfolio reflected on the most recent quarterly or annual statement of
10 financial condition on file with the commissioner; and

11 3. The bond has a minimum rating of "BBB" by any NRSRO;

12 (g) At the time of purchase, mutual funds and exchange traded funds if the
13 investments do not exceed twenty percent (20%) of the total market value of
14 the investment portfolio reflected on the most recent quarterly or annual
15 statement of financial condition on file with the commissioner; and

16 (h) Asset-backed securities if:

17 1. The bond is issued, assumed, or guaranteed by a solvent institution
18 created or existing under the laws of the United States, or a state,
19 province, district, or territory;

20 2. The asset-backed security investments do not exceed ten percent (10%)
21 of the total market value of the investment portfolio reflected on the
22 most recent quarterly or annual statement of financial condition on file
23 with the commissioner; and

24 3. The bond has a minimum rating of "BBB" by any NRSRO.

25 (8) Of the aggregate investments made by the trustees of the self-insured group under
26 this section:

27 (a) Not less than fifty percent (50%) of the total market value of the entire

1 investment portfolio shall be held in cash, cash equivalents, or securities as
2 described in subsection (7)(a) to (d) of this section; and

3 (b) A minimum of five percent (5%) of the total investment portfolio value shall
4 be maintained in cash or cash equivalent accounts or United States Treasury
5 and Federal Agency Securities with a remaining maturity of one (1) year or
6 less.

7 (9) In the event that any security investment authorized by subsection (7) of this section
8 is downgraded below "BBB," the workers' compensation self-insurance group shall
9 divest itself of that investment as prudently as possible without incurring
10 unnecessary losses.

11 (10) The commissioner may permit variation from the requirements of this section for
12 good cause.

13 (11) (a) Governmental entities that:

14 1. Participate or have participated in a workers' compensation self-insured
15 group authorized by this subtitle; and

16 2. Are assessed by the workers' compensation self-insured group to cover
17 an accrued deficit;

18 may finance the payment of the assessment over a period not to exceed twenty
19 (20) years.

20 (b) Financing obtained pursuant to paragraph (a) of this subsection may be
21 accomplished by:

22 1. The issuance of bonds, notes, or other obligations; or

23 2. A lease, installment payment agreement, or other similar agreement.

24 (c) If the governmental entity fails to make a scheduled payment on the financing
25 obtained pursuant to paragraph (a) of this subsection, any payments due to
26 that governmental entity shall be withheld or intercepted using the process
27 established in KRS 160.160(6)(5).

1 (12) Except as provided in subsection (11) of this section, all other provisions of the
2 Kentucky Revised Statutes applying to any financing obtained by a governmental
3 entity shall apply.