

1 AN ACT relating to independent school districts.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 6 of this Act:*

6 *(1) "Interim school board" or "interim board" means the local board of education*
7 *of a new independent school district that is elected under to Section 2 of this Act*
8 *or any successor board elected, either of which are serving prior to the deadline*
9 *to be fully operational established in subsection (4)(h) of Section 4 of this Act;*

10 *(2) "Local legislative body" means the:*

11 *(a) Legislative body of a consolidated local government or urban-county*
12 *government in a county where those governments exist; or*

13 *(b) County fiscal court in a county where no consolidated local government or*
14 *urban-county government exists;*

15 *(3) "New independent school district" or "new independent district" means an*
16 *independent school district that is established under Section 2 of this Act;*

17 *(4) "Originating school district" or "originating district" means the school district*
18 *from which new independent school districts are established under Section 2 of*
19 *this Act; and*

20 *(5) "Persistently underperforming school district" means a school district that*
21 *contains more than fifty percent (50%) of the schools identified for*
22 *comprehensive support and improvement under KRS 160.346 during a school*
23 *year.*

24 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
25 READ AS FOLLOWS:

26 *(1) Each year upon the identification of schools for comprehensive support and*
27 *improvement, the Kentucky Department of Education shall determine if any*

1 *school district is a persistently underperforming school district and provide notice*
2 *of the fact to the local legislative body of the county in which the school district is*
3 *located.*

4 *(2) Within thirty (30) days of the local legislative body receiving notice of the*
5 *persistently underperforming school district, the local legislative body shall hold a*
6 *public hearing to receive public comment on the state of the persistently*
7 *underperforming school district, whether the persistently underperforming school*
8 *district should be divided, and where the boundaries of any new independent*
9 *school districts derived from the persistently underperforming school district*
10 *should be located. All persons desiring to be heard shall be given an opportunity*
11 *to present oral testimony. The local legislative body may set reasonable time limits*
12 *for testimony. The local legislative body shall advertise the hearing by causing the*
13 *following to be published at least twice for two (2) consecutive weeks, in the*
14 *newspaper of largest circulation in the county, a display type advertisement of not*
15 *less than twelve (12) column inches:*

16 *(a) The purpose of the hearing under this subsection; and*
17 *(b) The time and place for the hearing which shall be held not less than*
18 *seven (7) days nor more than ten (10) days after the day that the*
19 *second advertisement is published.*

20 *(3) (a) No sooner than thirty (30) days and no later than ninety (90) days after the*
21 *public hearing, the local legislative body shall hold a specially called*
22 *meeting to consider whether the question of dividing the persistently*
23 *underperforming school districts into two (2) or more new independent*
24 *school districts shall be submitted to the voters.*

25 *(b) To submit the question of division to the voters, the local legislative body*
26 *shall adopt by majority vote a map detailing the boundaries of the proposed*
27 *new independent school districts. The local legislative body shall only*

1 submit one (1) proposed map to the voters. The proposed map shall:

2 1. Divide the persistently underperforming school district into at least
3 two (2) new independent school districts of substantially similar area,
4 population, and property assessment value;

5 2. Completely divide the area of the persistently underperforming school
6 district and affect no other school districts;

7 3. Contain integral voting precincts insofar as is practical; and

8 4. Include streets, highways, political boundaries, and other similar
9 landmarks that make understanding the proposed map easier to read.

10 (c) If the local legislative body either does not adopt a proposed map under
11 paragraph (a) of this subsection or determines to not propose division by a
12 majority vote at the meeting, the question shall not be submitted to the
13 voters.

14 (d) If the local legislative body adopts a proposed map under subsection (3)(a)
15 of this section, the proposed map and notice of the adoption of the proposed
16 map shall be delivered to the county clerk within five (5) days of the
17 adoption.

18 (4) Upon receipt of the proposed map and the notice under subsection (3) of this
19 section, the county clerk shall:

20 (a) Direct that the questions in subsections (8)(a) and (b) of this section shall be
21 placed on the ballot for the next regular election to be held in that county;

22 (b) Begin to accept petitions for nomination for the provisional election of
23 members of the interim boards of education that would be established upon
24 the establishment of the new independent school districts as provided in
25 subsection (9) of this section; and

26 (c) Advertise the proposed map approved by the local legislative body under
27 subsection (3) of this section by causing the proposed map to be published

1 as a display type advertisement of not less than twelve (12) column inches at
2 least twice for two (2) consecutive weeks in the newspaper of largest
3 circulation in the county during the thirty (30) days prior to the next regular
4 election.

5 (5) The eligibility requirements, number of members, and election requirements
6 applied to other independent school districts under KRS Chapter 160 shall apply
7 to the provisional election of the interim boards as though the proposed new
8 independent districts were already in existence.

9 (6) The general election laws, including penalties for violations, shall apply to the
10 election for the proposed new independent districts and the provisional election of
11 an interim board of the proposed new independent districts required in this
12 section, except where these laws are inconsistent with this section.

13 (7) No later than the fourth Tuesday preceding an election at which the proposition
14 under this section is to be submitted to the voters, any committee that in good
15 faith advocates or opposes the establishment of the new independent districts may
16 file a petition with the county clerk asking that the petitioners be recognized as
17 the committee entitled to nominate challengers for the question in subsection
18 (8)(a) of this section to serve at the election at which the question of division is to
19 be voted on. The requirements and procedures regarding challengers under this
20 subsection shall be the same as provided in KRS 117.315(4), (5), and (6), 117.316,
21 117.317, and 117.318.

22 (8) The proposition of establishing new independent school districts under this
23 section shall submit two (2) questions to the voters as follows:

24 (a) The first question shall be on the division of the persistently
25 underperforming school district and shall be submitted to all voters residing
26 in the school district. The question to be voted upon shall be stated without
27 emblems and voters shall designate a "Yes" or a "No" vote. The form of the

1 question shall be: "Are you in favor of the dissolution of (name of school
2 district) and the establishment of new independent school districts as
3 proposed by (name of local legislative body) to serve the residents of the new
4 districts and be governed by elected local boards of education with authority
5 to raise taxes for educational purposes?"; and

6 (b) The second question shall be on the provisional membership of the interim
7 boards of education of the new independent districts and shall be submitted
8 to the voters residing in the proposed new independent school districts
9 independently. The form of the proposition for the provisional election of
10 the interim board members shall be: "If a new independent school district is
11 established, who should serve as the members of the interim board of
12 education for the district?"

13 (9) If the majority of votes cast in the election on establishing a new independent
14 district under subsection (8)(a) of this section are:

15 a. "No," then the election of the members of the interim board of education
16 shall be void; or
17 b. "Yes," then the election of the interim board of education shall be binding
18 and the five (5) candidates receiving the most votes shall be elected to the
19 board.

20 (10) The ballot containing an election establishing a new independent school district
21 and a provisional election of an interim board of education for the proposed new
22 independent school district shall have the question of the establishment of the
23 new independent district appear on the ballot before the provisional election of an
24 interim board of education. The two (2) questions shall appear on the ballot in
25 proximity to each other.

26 (11) The county clerk shall conspicuously post the proposed map approved by the
27 local legislative body under subsection (3) of this section at each precinct polling

1 place and make copies available to voters at each polling place upon request.

2 (12) The results of the election shall be certified by the county board of elections. The
3 certificate of the result shall be immediately filed with the county clerk and the
4 certificate, or an attested copy thereof, shall be prima facie evidence of the result
5 of the election.

6 (13) The questions in subsection (8) of this section shall be subject to the same
7 recount, contest, canvass, and recanvass provisions and procedures as set forth in
8 KRS 242.120.

9 (14) (a) Any interim board members elected under subsection (8)(b) of this section
10 shall assume office upon certification of the election results and serve on
11 the interim board until January 1 following the next regular election in an
12 even year.

13 (b) Notwithstanding KRS 160.200, upon the end of the term of any members
14 elected under subsection (8)(b) of this section, as set out in paragraph (a) of
15 this subsection, the three (3) members elected during the regular election in
16 an even year with the most votes shall then take office and serve four (4)
17 year terms. The remaining members elected during that election shall serve
18 an initial two (2) year term, with subsequent terms being for four (4) years.

19 ➔ SECTION 3. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
20 READ AS FOLLOWS:

21 (1) Upon the certification of an election result that establishes new independent
22 school districts and interim boards of education under Section 2 of this Act, the
23 interim boards shall have all the powers, authority, and responsibilities of any
24 other local board of education, except for the transitional provisions provided in
25 this section and Sections 4, 5, and 6 of this Act. Any vacancy in membership of an
26 interim board shall be filled in the same manner as KRS 160.190.

27 (2) The board of education of the originating district shall continue serving as the

1 board of education of the originating district until the district's dissolution.

2 (3) Upon the certification of an election result that establishes new independent

3 districts and interim boards under Section 2 of this Act, the Kentucky Department

4 of Education shall conduct a calculation of the total assets and liabilities held by

5 the originating district. The calculation shall comply with the following:

6 (a) The calculation shall be an amount in dollars for both total assets and total

7 liabilities;

8 (b) The department shall develop a list of assets and liabilities and the values

9 assigned to each. Classes of individual items may collectively be given an

10 assigned value based on an average valuation;

11 (c) The liabilities shall include all the debt service of the originating district,

12 including debt for construction and the purchase of equipment for the

13 originating district;

14 (d) The department shall then calculate the projected tax assessments for each

15 of the new independent districts. Based on the proportion of each of the new

16 independent district's projected tax assessments, the department shall assign

17 an amount in dollars of both assets and liabilities. These shall be the initial

18 assigned value of assets and liabilities for each district;

19 (e) Until the transfer of assets and liabilities outlined in subsection (8) of this

20 section, and excluding any required funds transferred in Section 4 of this

21 Act, the originating district shall maintain control and use of its the assets

22 and shall be responsible for their maintenance. An amount of assets

23 assigned to the new independent district in paragraph (d) of this subsection

24 shall be restricted and shall only be used, disposed of, or expended to

25 provide essential education services for currently enrolled students. The

26 originating district's use of these funds shall require approval of the

27 department; and

1 (f) Prior to the deadline for the new independent districts to be fully
2 operational established in subsection (4)(h) of Section 4 of this Act, as the
3 originating district continues to make any payments on debts, the amounts
4 shall be attributed in the same proportional manner as in paragraph (d) of
5 this subsection.

6 (4) The interim board of education of the new independent districts shall conduct
7 negotiations to agree to the division of the originating district's assets and
8 liabilities. Each new independent district shall be entitled to an amount of assets
9 assigned by the department under subsection (3) of this section. The negotiation
10 shall resolve:

11 (a) The disposition of any of the originating district's real property that is
12 located within the boundaries of the new independent districts;

13 (b) The division of any liquid assets, accounts receivable, and intangible assets
14 held by or owed to the originating district;

15 (c) The specific liabilities each district shall receive individually or shall share
16 between the districts;

17 (d) The division, in bulk or individually, of the originating district's desks,
18 books, computers, projectors, televisions, phones, school buses,
19 automobiles, furniture, equipment, supplies, and other tangible personal
20 property owned by the originating school district; and

21 (e) The continuation, modification, assignment, or termination of
22 nonemployment contracts agreed to by the originating district.

23 (5) The boards of education shall conclude negotiations and enter an agreed division
24 of the originating district's assets and liabilities by November 1 following the
25 establishing of the new independent districts. The agreement may provide a
26 timeline for the general transfer of assets and liabilities and may also provide for
27 a timeline for the transfer of specific assets. If any matter remains unresolved

1 after the deadline established in this subsection, the matters shall be presented to
2 the commissioner of education or designee for resolution pursuant to subsection
3 (6) of this section. Any proposed agreement to the division of the originating
4 district's assets shall be agreed to by a majority vote of each district's board of
5 education.

6 (6) On issues the boards cannot come to agreement under subsections (4) and (5) of
7 this section, a board may appeal to the commissioner of education or designee to
8 determine an equitable resolution of the disagreement. In any determination, the
9 decision shall prioritize the successful operation of each district. The matter shall
10 be decided within thirty (30) days of the submission. The commissioner or
11 designee shall notify the districts of the decision. The decision may be appealed to
12 the Kentucky Board of Education at its next regular meeting.

13 (7) If any disagreement between the boards remains unresolved after the passage of
14 the deadlines in subsections (5) and (6) of this section, the Kentucky Department
15 of Education shall assess a fine to the districts in the amount of the dispute in
16 question with the fine divided proportionally in the same manner as in subsection
17 (3)(d) of this section and the fine shall be placed in the fund to support education
18 excellence in Kentucky.

19 (8) By the second June 30 following the establishment of the new independent
20 districts, the transfer of all assets and debts identified in the agreement made
21 under subsection (5) of this section or resolved under subsection (6) of this
22 section shall be determined and completed and the originating school district
23 shall be dissolved.

24 (9) The originating district shall continue to exercise taxing authority over the new
25 independent districts and shall collect revenues. For the tax year in which the
26 deadline to be fully operational established in subsection (4)(h) of Section 4 of
27 this Act occurs, the amounts collected by the originating district shall be

1 *distributed proportionally between the new independent districts in the same*
2 *manner as in subsection (3)(d) of this section. Upon the close of that tax year, the*
3 *new independent districts shall be responsible for collecting the taxes within the*
4 *boundaries of the districts as otherwise provided by law thereafter.*

5 ➔ SECTION 4. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
6 READ AS FOLLOWS:

7 *(1) When a new independent school district is established under Section 2 of this Act,*
8 *the county judge/executive of the county in which it is established shall call the*
9 *interim local board of education to meet within ten (10) days.*

10 *(2) At the first meeting, the interim board shall only:*

11 *(a) Take the oath of office;*

12 *(b) Elect a chair and vice chair;*

13 *(c) Discuss potential policies of the interim board;*

14 *(d) Discuss the appointment of a superintendent, secretary, and treasurer under*
15 *KRS Chapter 160; and*

16 *(e) Determine whether the board shall seek assistance from the commissioner*
17 *of education pursuant to subsection (3) of this section.*

18 *(3) An interim board may request technical assistance from the Kentucky*
19 *Department of Education by submitting a request to the commissioner of*
20 *education. Upon receiving a request, the commissioner shall direct department*
21 *staff to provide technical assistance to the board in developing the transition*
22 *required under subsection (4) of this section.*

23 *(4) In transitioning the new independent district into a fully functional district, the*
24 *interim board and new independent district shall conform with the following:*

25 *(a) The interim board shall develop, adopt, maintain, and comply with the*
26 *transition plan required under Section 6 of this Act;*

27 *(b) By January 1 after its establishment, the interim board shall develop an*

1 interim budget for the operations of the new independent district for the
2 remainder of the fiscal year that will only include the costs of critical
3 operations of the board, such as salaries, supplies, offices, and other
4 expenses necessary for the board to function. The chair of the board shall
5 submit the interim budget to the commissioner of education for approval.
6 Within five (5) days, the commissioner shall approve or disapprove the
7 proposed budget. If the proposed budget is disapproved, the interim board
8 may resubmit an amended budget or appeal the commissioner's decision to
9 the Kentucky Board of Education at its next regular meeting. Once a budget
10 has been approved, the department shall require the originating district to
11 transfer the approved amounts to the new independent district in regular
12 installments. If the originating district fails to transfer the funds, the
13 amounts shall be deducted from the funds transferred to the originating
14 district from the fund to support education excellence in Kentucky. These
15 amounts shall be deducted from the new independent district's assets
16 assigned in subsection (3) of Section 3 of this Act;

17 (c) In a timely manner, the interim board shall:

18 1. Appoint an interim superintendent for the new independent district to
19 assist the board in executing the transition. Any contract between an
20 interim superintendent and an interim board shall not extend past the
21 deadline for the new independent district to be fully operational
22 established in paragraph (h) of this subsection, but may subsequently
23 be renewed by the board;

24 2. Appoint a secretary and a treasurer for the board; and

25 3. Select counsel for the board;

26 (d) Upon the direction of the interim board, the interim superintendent shall
27 hire district staff critical for the operations of the interim board, including

1 but not limited to a district finance officer. Notwithstanding any statute to
2 the contrary, any hiring or termination made by the interim superintendent
3 prior to the deadline established in paragraph (h) of this subsection shall be
4 subject to ratification by the interim board;

5 (e) By May 1 following the establishment of the new independent district, the
6 interim board shall develop a budget for the operations of the district for the
7 following fiscal year. The chair of the board shall submit the budget to the
8 commissioner of education for approval. The budget under this paragraph
9 shall be subject to the same provisions as the interim budget in paragraph
10 (b) of this subsection but shall include additional district staff required for
11 the continued development of district operations;

12 (f) By the second January 1 following the establishment of the new
13 independent district, the interim board shall:

14 1. Identify the schools that the board intends to establish within the
15 district at the start of the next school year, the grades and programs to
16 be operated within those schools, and the number of staff and the staff
17 positions that will be placed at those schools; and

18 2. Develop a special budget designed to build up the district's operations
19 necessary to provide a minimum school term as defined in KRS
20 158.070 during the following school year. The budget under this
21 subparagraph shall be subject to the same provisions as the interim
22 budget in paragraph (b) of this subsection but shall include funds
23 needed prior to the beginning of the next school year for:

24 a. The hiring of principals and other school staff required for
25 preparations;

26 b. District and school facilities and additional supplies or tangible
27 personal property not provided for in the agreement in

subsection (4) of Section 3 of this Act; and

c. Contract services that are needed to support district and school operations:

(g) Notwithstanding KRS 160.345, upon the authorization by the interim board:

1. The interim superintendent shall select and hire the principals for the district's schools, subject to the ratification of the interim board; and

2. The principals shall begin hiring school staff for the following school year, with the hiring subject to the ratification of the interim superintendent; and

(h) The second July 1 following the establishment of the new independent school district shall be the deadline for the district to be fully operational and the interim board shall ensure the district is prepared to provide full services to the students of the new independent school district for the coming school year.

(5) *An interim board of a new independent district may request a waiver of the timeline established in subsection (4) of this section to the commissioner of education or designee, except that no waiver shall be granted to alter the deadline established in subsection (4)(h) of this section. The commissioner or designee shall approve or deny the request within five (5) days of the submission. In approving a waiver, the commissioner or designee shall establish a new deadline that would reasonably ensure the new independent school district is fully operational by the second July 1 following the establishment of the new independent school district. A denial may be appealed to the Kentucky Board of Education at its next regular meeting.*

25 **(6) If during the transition established under this section the interim board identifies**
26 **a statute or administrative regulation that inhibits the new independent district's**
27 **ability to be fully operational as required under subsection (4)(h) of this section,**

1 the interim board may submit a request to the Kentucky Board of Education to
2 temporarily waive the statute or administrative regulation. The request shall
3 identify the specific statute or administrative regulation, the rationale for the
4 needed waiver, and the duration the waiver is needed. The Kentucky Board of
5 Education shall consider the request at its next regular meeting and, if the
6 request is approved, the state board shall identify the duration of the waiver that
7 shall not extend past the conclusion of the first fully operational school year.

8 (7) The interim board may enter into a contract with another board of education to
9 provide support services for the new independent district, including financial
10 management and payroll services. The contract shall not extend beyond the
11 deadline established in subsection (4)(h) of this section. However, the contract
12 may subsequently be renewed by the board.

13 (8) Notwithstanding any other provision of Sections 1 to 6 of this Act, if, prior to the
14 deadline established in subsection (4)(h) of this section, each of the interim
15 boards of new independent districts within an originating school district
16 determines by a four-fifths (4/5) vote that the establishment of the new
17 independent district is not financially viable, then the chair of each interim board
18 shall submit notice of the vote to the board of education of the originating district
19 and the commissioner of education and the commissioner shall establish the
20 timeline and the process for the new independent districts and interim boards to
21 cease functions and merge back into the originating school district.

22 ➔ SECTION 5. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
23 READ AS FOLLOWS:

24 (1) Upon the deadline to become fully functional in subsection (4)(h) of Section 4 of
25 this Act, the new independent district shall be prepared to provide services to the
26 students of the district and the interim board shall no longer serve as an interim
27 but shall exercise the full authorities of a local board of education, except for the

1 provisions of this section and Section 6 of this Act. Both the originating district
2 and the local board of education of the originating district shall cease operation
3 and shall be dissolved.

4 (2) For any debts assessed to the new independent district under Section 3 of this Act,
5 any tax levied by the originating district that was authorized for the purposes of
6 paying a specific debt or interest shall continue to be levied and collected within
7 the boundaries of the new independent district by the new independent district's
8 board in accordance with the laws under which the levies were originally made
9 until all the associated obligations of the originating district have been retired.

10 (3) Notwithstanding the requirements under KRS 160.345, the new independent
11 district shall not be required to implement school-based decision making in the
12 district for the first fully operational school year, but shall adopt a process to seek
13 the feedback of parents and school faculty during that year. The district shall be
14 subject to KRS 160.345 with the start of the second fully operational year.

15 ➔ SECTION 6. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
16 READ AS FOLLOWS:

17 (1) The interim board shall develop, adopt, maintain, and comply with a transition
18 plan for the new independent district that shall guide the transition process for
19 the new independent district until the close of the first fully operational school
20 year.

21 (2) The interim board may request assistance in developing and maintaining the
22 transition plan from the commissioner of education who shall provide expertise
23 and guidance from the Kentucky Department of Education for the interim
24 board's plan.

25 (3) The transition plan shall include, at a minimum:

26 (a) The aspects required in subsection (4) of Section 4 of this Act;

27 (b) An assessment detailing the new independent district's number of school-

1 aged residents and projections for the first fully operational school year's
2 total enrollment and enrollment by grade;

3 (c) The schools, grades, and programs the district will offer;
4 (d) The facilities that the district will maintain to house those schools, grades,
5 and programs that includes a facilities plan for the first fully operational
6 year;

7 (e) The transportation services the district will provide to students that includes
8 a transportation plan for the first fully operational year;

9 (f) The food services the district will provide to students that includes a food
10 services plan for the first fully operational year;

11 (g) The process the district will follow in conforming to the Individuals with
12 Disabilities Education Act, the Americans with Disabilities Act, and the
13 Rehabilitation Act of 1973;

14 (h) The staffing plan for the district that includes teacher and staff assignments
15 to specific schools for the first fully operational year;

16 (i) The procedures and advisory bodies established to seek parent and school
17 faculty feedback during the first fully operational year as required under
18 Section 5 of this Act;

19 (j) Notwithstanding the requirements in KRS 158.070 for a school district
20 calendar committee, establish the school calendar for the first fully
21 operational school year;

22 (k) A district technology plan that provides for the technological needs of the
23 district and schools throughout the transition and the first fully operational
24 school year;

25 (l) Transition services for high school students to ensure that students remain
26 on track to graduate during the transition and the first fully operational
27 school year; and

1 (m) During the first fully operational school year, whether and how the new
2 independent district will offer the following:
3 1. Preschool and kindergarten;
4 2. Career and technical education;
5 3. Student health services; and
6 4. Family resource and youth service centers.

7 ➔ SECTION 7. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO
8 READ AS FOLLOWS:

9 (1) As used in this section, "originating school district" and "new independent
10 school district" have the same meanings as in Section 1 of this Act.

11 (2) Notwithstanding any provisions of this chapter to the contrary, when a new
12 independent school district is established under Sections 1 to 6 of this Act, the
13 calculation of the funds from the fund to support education excellence in
14 Kentucky that are due to new independent school districts for the first fully
15 operational school year shall:

16 (a) For purposes of average daily attendance, be based on each districts'
17 projected enrollment and the originating district's average daily attendance
18 from the prior school year; and

19 (b) For purposes of aggregate daily attendance of students transported, be
20 based on each districts' projected enrollment and a transportation plan
21 submitted to the Kentucky Department of Education by the new independent
22 districts.

23 (3) The calculations required in subsection (2) of this section shall be adjusted by the
24 Kentucky Department of Education in January of the first fully operational
25 school year to reflect the first semester's actual data.

26 (4) Following the first fully operational school year, funding for subsequent years of
27 operation shall be calculated as otherwise provided in this chapter.