

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) "Altered originating school district" or "altered originating district" means the*
7 *originating school district as it exists after a new independent school district is*
8 *removed from its boundaries and that shall continue as the same legal entity as*
9 *the originating school district;*

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

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

16 *(4) "Originating school district" or "originating district" means a school district*
17 *from which a new independent school district and an altered originating school*
18 *district is created under Section 2 of this Act; and*

19 *(5) "Qualifying city" means an incorporated city:*

20 *(a) That has no independent school district currently in existence within the*
21 *city's boundaries;*

22 *(b) With boundaries that do not contain the entirety of the county in which the*
23 *city is located; and*

24 *(c) That has a population based on the most recent decennial census conducted*
25 *by the United States Bureau of the Census of at least five thousand (5,000)*
26 *people.*

27 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO

1 READ AS FOLLOWS:

2 (1) The qualified voters of a qualifying city may petition to require an election on
3 establishing a new independent school district within the boundaries of the
4 qualifying city.

5 (2) A petition for an election establishing a new independent district shall be signed
6 by the number of constitutionally qualified voters of the qualifying city equal to
7 twenty-five percent (25%) of the votes cast in the city at the last preceding regular
8 election. The petition may consist of one (1) or more separate units, and shall be
9 filed with the county clerk. The petition shall be in accordance with the
10 following:

11 (a) Before a petition for an election may be presented for signatures, an intent
12 to circulate the petition, including a copy of the unsigned petition, shall be
13 filed with the county clerk by any person or group of persons seeking the
14 establishment of a new independent district;

15 (b) After a petition for an election has received no fewer than the number of
16 qualifying signatures required by this subsection, the signed petition shall
17 be filed with the county clerk;

18 (c) A petition for an election shall include, in addition to the signature and
19 legibly printed name of each voter, the voter's residence address, year of
20 birth, and the correct date upon which the voter's name was signed;

21 (d) No signer of a petition for an election may withdraw his or her name or
22 have it taken from the petition after the petition has been filed. If the name
23 of any person has been placed on the petition for an election without that
24 person's authority, the person may appear before the county clerk before
25 the election is ordered and upon proof that the person's name was placed on
26 the petition without his or her authority, the person's name and personal
27 information shall be eliminated by the county clerk. When the person's

1 name and personal information has been eliminated, he or she shall not be
2 counted as a petitioner;

3 (e) A petition for an election under this subsection shall state:

4 1. "We the undersigned registered voters hereby petition for an election
5 on the following question: 'Are you in favor of the establishment of a
6 new independent school district in (name of city) to serve the residents
7 of the city and be governed by an elected local board of education with
8 authority to tax for educational purposes?"; and

9 2. The projected date of the election;

10 (f) No petition for an election shall be circulated for more than six (6) months
11 prior to its filing;

12 (g) Substantial compliance with the wording designated under this subsection
13 for the petition is sufficient to validate the actual wording of the petition;
14 and

15 (h) In order for the election to be held on the day fixed by law for a regular
16 election, the petition shall be filed not later than the first Tuesday following
17 the first Monday in June preceding the day fixed by law for holding the
18 regular election.

19 (3) After a petition for an election has been filed in conformity with this section, the
20 county clerk shall direct that the questions in subsection (8)(a) and (b)1. of this
21 section shall be placed on the ballot for the next regular election to be held in that
22 city.

23 (4) (a) Upon the determination by the county clerk that a petition for an election
24 has satisfied the requirements of this section, the county clerk shall begin to
25 accept petitions for nomination for the provisional election of members of
26 the interim board of education that would be established upon the creation
27 of the new independent school district as provided in subsection (8) of this

1 section.

2 (b) The eligibility requirements, number of board members, and election
3 requirements applied to other independent school districts under this
4 chapter shall apply to the provisional election of an interim board as though
5 the proposed new independent district were already in existence.

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

10 (6) No election to establish a new independent district under this section shall be held
11 in the same city more than once every three (3) years.

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

21 (8) The proposition under this section shall submit two (2) questions to the voters of
22 the city as follows:

23 (a) The first question shall be on the establishment of the new independent
24 school district. The question to be voted upon shall be stated without
25 emblems and voters shall designate a "Yes" or a "No" vote. The form of the
26 question shall be: "Are you in favor of the establishment of a new
27 independent school district in (name of city) to serve the residents of the city

1 and be governed by an elected local board of education with authority to
2 raise taxes for educational purposes?"; and

3 (b) The second question shall be on the provisional membership of the interim
4 board of education of the new independent district and shall be subject to
5 the following:

6 1. The form of the question for the provisional election of the interim
7 board members shall be: "If a new independent school district is
8 established, who should serve as the members of the interim board of
9 education for the district?";

10 2. The five (5) candidates receiving the most votes shall be provisionally
11 elected to the board, dependent on subparagraph 3. of this paragraph;
12 and

13 3. If the majority of votes cast in the election on establishing a new
14 independent district under paragraph (a) of this subsection are:

15 a. "No," then the provisional election of the members of the
16 interim board of education shall be void; or

17 b. "Yes," then the provisional election of the members of the
18 interim board of education shall be binding and the board shall
19 serve as an interim board.

20 (9) 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 (10) The results of the election shall be certified by the county board of elections. The
27 certificate of the result shall be immediately filed with the county clerk and the

1 certificate, or an attested copy thereof, shall be prima facie evidence of the result
2 of the election.

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

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

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

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

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

24 (2) The board of education of the originating district shall continue serving as the
25 board of education of the altered originating district. The board of education of
26 the altered originating district shall conduct the process for dividing the district
27 into new election divisions under KRS 160.210. In dividing the altered originating

district, if more than one (1) of its members reside in one (1) division, or if any of its members reside in the new independent district, then representation of over- and under-represented divisions shall be determined by lot and the selected members shall represent those divisions until their terms expire. Thereafter, members from those divisions shall be nominated and elected as provided in KRS 160.200, 160.220, 160.230, 160.240, 160.250, and 160.260.

(3) Upon the certification of an election result that creates a new independent district and establishes the district's interim board under Section 2 of this Act, the Kentucky Department of Education shall conduct a calculation of the total assets and liabilities held by the originating district from which the territory of the new independent district was established based on the election date the new independent district. The calculation shall comply with the following:

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

(b) The department shall develop a list of assets and liabilities and the values assigned to each. Classes of individual items may collectively be given an assigned value based on an average valuation. The list shall be governed by the following:

1. The assets shall exclude:

a. Any federal funds or grant funds given to the originating district when division would violate restrictions or conditions of the funds; and

b. Any property purchased with funds when division would violate restrictions or condition of the funds or the property; and

2. The liabilities shall include all the debt service of the originating district, including debt for construction and the purchase of equipment for the originating district; and

1 (c) The department shall then calculate the projected tax assessments for both
2 the new independent district and the altered originating district. Based on
3 the proportion of the new independent district's and altered originating
4 district's projected tax assessments to the originating district's overall tax
5 assessments, the department shall assign an amount in dollars of both
6 assets and liabilities. These shall be the initial assigned value of assets and
7 liabilities for each district;

8 (4) Until the transfer of assets and liabilities outlined in subsection (10) of this
9 section, and excluding any required funds transferred in Section 4 of this Act, the
10 altered originating district shall maintain control and use of the new independent
11 district's assets and shall be responsible for their maintenance. An amount of
12 assets assigned to the new independent district in subsection (5) of this section
13 shall be restricted and shall only be used, disposed of, or expended to provide
14 essential education services for currently enrolled students. The altered
15 originating district's use of any new independent district funds shall require
16 approval of the department. Any new debt acquired by the altered originating
17 district shall not be assigned to the new independent district.

18 (5) Prior to the deadline for the new independent district to be fully operational
19 established in subsection (4)(h) of Section 4 of this Act, as the altered originating
20 district continues to make any payments on debts of the originating district, the
21 amounts shall be attributed in the same proportional manner as in subsection
22 (3)(c) of this section.

23 (6) The interim board of education of the new independent district and the board of
24 education of the altered originating district shall conduct negotiations to agree to
25 the division of the originating district's assets and liabilities. Each district shall be
26 entitled to an amount of assets assigned by the department under subsection (3)
27 of this section. The negotiation shall resolve;

- 1 (a) The disposition of any of the originating district's real property that is
2 located within the boundaries of the new independent district;
- 3 (b) The division of any liquid assets, accounts receivable, and intangible assets
4 of the originating district;
- 5 (c) The specific liabilities each district shall receive individually or shall share
6 between the districts;
- 7 (d) The division, in bulk or individually, of the originating district's desks,
8 books, computers, projectors, televisions, phones, school buses,
9 automobiles, furniture, equipment, supplies, and other tangible personal
10 property owned by the originating school district; and
- 11 (e) The continuation, modification, assignment, or termination of
12 nonemployment contracts agreed to by the originating district.
- 13 (7) The boards of education shall conclude negotiations and enter an agreed division
14 of the originating district's assets and liabilities by November 1 following the
15 establishing of the new independent district. The agreement may provide a
16 timeline for the general transfer of assets and liabilities and may also provide for
17 a timeline for the transfer of specific assets. If any matter remains unresolved
18 after the deadline established in this subsection, the matters shall be presented to
19 the commissioner of education or designee for resolution pursuant to subsection
20 (8) of this section. Any proposed agreement to the division of the originating
21 district's assets shall be agreed to by a majority vote of each district's board of
22 education.
- 23 (8) On issues the boards cannot come to agreement under subsection (6) or (7) of
24 this section, a board may appeal to the commissioner of education or designee to
25 determine an equitable resolution of the disagreement. In any determination, the
26 decision shall prioritize the successful operation of both districts. The matter
27 shall be decided within thirty (30) days of the submission. The commissioner or

1 designee shall notify the districts of the decision. The decisions may be appealed
2 to the Kentucky Board of Education at its next regular meeting.

3 (9) If any disagreement between the boards remains unresolved after the passage of
4 the deadlines in subsections (7) and (8) of this section, the Kentucky Department
5 of Education shall assess a fine to the districts in the amount of the dispute in
6 question with the fine divided proportionally in the same manner as in subsection
7 (3)(c) of this section and shall be placed in the fund to support education
8 excellence in Kentucky.

9 (10) By the second June 30 following the establishment of the new independent
10 district, the transfer of all assets and debts identified in the agreement made
11 under subsection (7) of this section or resolved under subsection (6) of this
12 section shall be determined and completed.

13 (11) The altered originating district shall continue to exercise taxing authority over
14 both the altered originating district and the new independent district and shall
15 collect revenues in the same manner as the originating district. For the tax year
16 in which the deadline to be fully operational established in subsection (4)(h) of
17 Section 4 of this Act occurs, the amounts collected by the altered originating
18 district shall first be divided by two (2). The quotient shall then be distributed
19 proportionally between the two districts in the same manner as in subsection
20 (3)(c) of this section. Upon the close of that tax year, the new independent district
21 shall be responsible for collecting the taxes within the boundaries of the district
22 as otherwise provided by law.

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

25 (1) When a new independent school district is established under Section 2 of this Act,
26 the mayor of the qualifying city in which it is established shall call the interim
27 board to meet within ten (10) days.

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

2 (a) Take the oath of office;

3 (b) Elect a chair and vice chair;

4 (c) Discuss potential policies of the interim board;

5 (d) Discuss the appointment of a superintendent, secretary, and treasurer under
6 this chapter; and

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

9 (3) An interim board may request technical assistance from the Kentucky
10 Department of Education by submitting a request to the commissioner of
11 education. Upon receiving a request, the commissioner shall direct department
12 staff to provide technical assistance to the board in developing the transition
13 required under subsection (4) of this section.

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

16 (a) Develop, adopt, maintain, and comply with the transition plan required
17 under Section 6 of this Act;

18 (b) By January 1 after its establishment, develop an interim budget for the
19 operations of the new independent district for the remainder of the fiscal
20 year that will only include the costs of critical operations of the interim
21 board, such as salaries, supplies, offices, and other expenses necessary for
22 the interim board to function. The chair of the interim board shall submit
23 the interim budget to the commissioner of education for approval. Within
24 five (5) days, the commissioner shall approve or disapprove the proposed
25 budget. If the proposed budget is disapproved, the interim board may
26 resubmit an amended budget or appeal the commissioner's decision to the
27 Kentucky Board of Education at its next regular meeting. Once a budget

1 has been approved, the department shall require the altered originating
2 district to transfer the approved amounts to the new independent district in
3 regular installments. If the altered originating district fails to transfer the
4 funds, the amounts shall be deducted from the funds transferred to the
5 altered originating district from the fund to support education excellence in
6 Kentucky. These amounts shall be deducted from the new independent
7 district's assets assigned in subsection (3) of Section 3 of this Act;

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

- 9 1. Appoint an interim superintendent for the new independent district to
10 assist the interim board in executing the transition. Any contract
11 between an interim superintendent and an interim board shall not
12 extend past the deadline for the new independent district to be fully
13 operational established in paragraph (h) of this subsection, but may
14 subsequently be renewed by the board;
- 15 2. Appoint a secretary and a treasurer for the interim board; and
- 16 3. Select counsel for the interim board;

17 (d) Upon the direction of the interim board, the interim superintendent shall
18 hire district staff critical for the operations of the interim board, including
19 but not limited to a district finance officer. Notwithstanding any statute to
20 the contrary, any hiring or termination made by the interim superintendent
21 prior to the deadline established in paragraph (h) of this subsection shall be
22 subject to ratification by the interim board;

23 (e) By May 1 following the establishment of the new independent district, the
24 interim board shall develop a budget for the operations of the district for the
25 following fiscal year. The chair of the interim board shall submit the budget
26 to the commissioner of education for approval. The budget under this
27 paragraph shall be subject to the same provisions as the interim budget in

1 paragraph (b) of this subsection but shall include additional district staff
2 required for the continued development of district operations;

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

5 1. Identify one (1) or more schools that the interim board intends to
6 establish within the district at the start of the next school year, the
7 grades and programs to be operated within those schools, and the
8 number of staff and the staff positions that will be placed at those
9 schools; and

10 2. Develop a special budget designed to build up the district's operations
11 necessary to provide a minimum school term as defined in KRS
12 158.070 during the following school year. The budget under this
13 subparagraph shall be subject to the same provisions as the interim
14 budget in paragraph (b) of this subsection but shall include funds
15 needed prior to the beginning of the next school year for:

16 a. The hiring of principals and other school staff required for
17 preparations;

18 b. District and school facilities and additional supplies or tangible
19 personal property not provided for in the agreement in
20 subsection (6) of Section 3 of this Act; and

21 c. Contract services that are needed to support district and school
22 operations;

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

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

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

1 superintendent; and

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

6 (5) An interim board of a new independent district may request a waiver of the
7 timeline established in subsection (4) of this section to the commissioner of
8 education or designee, except that no waiver shall be granted to alter the deadline
9 established in subsection (4)(h) of this section. The commissioner or designee
10 shall approve or deny the request within five (5) days of the submission. A denial
11 may be appealed to the Kentucky Board of Education at its next regular meeting.

12 (6) If during the transition established under this section the interim board identifies
13 a statute or administrative regulation that inhibits the district's ability to be fully
14 operational as required under subsection (4)(h) of this section, the interim board
15 may submit a request to the Kentucky Board of Education to temporarily waive
16 the statute or administrative regulation. The request shall identify the specific
17 statute or administrative regulation, the rationale for the needed waiver, and the
18 duration the waiver is needed. The Kentucky Board of Education shall consider
19 the request at its next regular meeting and, if approved, the state board shall
20 identify the duration of the waiver that shall not extend past the conclusion of the
21 first fully operational school year.

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

27 (8) Notwithstanding any other provision of Sections 1 to 6 of this Act, if, prior to the

deadline established in subsection (4)(h) of this section, the interim board determines by a four-fifths (4/5) vote that the establishment of the new independent district is not financially viable, then the chair of the interim board shall submit notice of the vote to the board of education of the altered originating district and the commissioner of education. The commissioner shall establish the timeline and the process for the new independent district and interim board to cease functions and merge back into the originating school district.

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

(1) Upon the deadline to become fully functional in subsection (4)(h) of Section 4 of this Act, the new independent district shall be prepared to provide services to the students of the district and the interim board shall no longer serve as an interim but shall exercise the full authorities of a local board of education, except for the provisions of this section and Section 6 of this Act.

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

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

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

- 1 (1) The interim board shall develop, adopt, maintain, and comply with a transition
2 plan for the new independent district that shall guide the transition process for
3 the new independent district until the close of the first fully operational school
4 year.
- 5 (2) The interim board may request assistance in developing and maintaining the
6 transition plan from the commissioner of education who shall provide expertise
7 and guidance from the Kentucky Department of Education for the interim
8 board's plan.
- 9 (3) The transition plan shall include, at a minimum:
- 10 (a) The aspects required in subsection (4) of Section 4 of this Act;
11 (b) An assessment detailing the new independent district's number of school-
12 aged residents and projections for the first fully operational school year's
13 total enrollment and enrollment by grade and program;
14 (c) The schools, grades, and programs the district will offer;
15 (d) The facilities that the district will maintain to house those schools, grades,
16 and programs that includes a facilities plan for the first fully operational
17 year;
18 (e) The transportation services the district will provide to students that includes
19 a transportation plan for the first fully operational year;
20 (f) The food services the district will provide to students that includes a food
21 services plan for the first fully operational year;
22 (g) The process the district will follow in conforming to the Individuals with
23 Disabilities Education Act, the Americans with Disabilities Act, and the
24 Rehabilitation Act of 1973;
25 (h) The staffing plan for the district that includes teacher and staff assignments
26 to specific schools for the first fully operational year;
27 (i) The procedures and advisory bodies established to seek parent and school

1 faculty feedback during the first fully operational year as required under
2 Section 5 of this Act;

3 (j) Notwithstanding the requirements in KRS 158.070 for a school district
4 calendar committee, establish the school calendar for the first fully
5 operational school year;

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

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

12 (m) During the first fully operational school year, whether and how the new
13 independent district will offer the following:

14 1. Preschool and kindergarten;

15 2. Career and technical education;

16 3. Student health services; and

17 4. Family resource and youth service centers.

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

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

22 (2) Notwithstanding any provisions of this chapter to the contrary, when a new
23 independent school district is created under Sections 1 to 6 of this Act, the
24 calculation of the funds from the fund to support education excellence in
25 Kentucky that are due to both the new independent school district and the altered
26 originating school district for the first fully operational school year shall:

27 (a) For purposes of average daily attendance, be based on both districts'

- 1 projected enrollment and the originating district's average daily attendance
2 from the prior school year; and
3 **(b) For purposes of aggregate daily attendance of students transported, be**
4 based on both districts' projected enrollment and a transportation plan
5 submitted to the Kentucky Department of Education by both districts.
6 **(3) The calculations required in subsection (2) of this section shall be adjusted by the**
7 Kentucky Department of Education in January of the first fully operational
8 school year to reflect the first semester's actual data.
9 **(4) Following the first fully operational school year, funding for subsequent years of**
10 operation shall be calculated as otherwise provided in this chapter.