

AN ACT relating to public infrastructure authorities.

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

SECTION 1. KRS CHAPTER 175B IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

*As used in this chapter:*

- (1) "Authority" means the state authority, a local authority, or both, unless the specific use requires that it apply only to the state authority or a local authority;*
- (2) "Cabinet" means the Transportation Cabinet;*
- (3) "Cost" means:*
  - (a) The cost of construction of the project, including the acquisition of land, rights-of-way, property, rights in land, easements, and interests acquired by the authority for construction of a project;*
  - (b) The cost of preparing land or property, including demolishing or removing any buildings or structures, and the cost of acquiring any lands to which those buildings or structures may be moved;*
  - (c) The pro-rata value of all machinery and equipment used in construction of the project;*
  - (d) Financing charges and provisions for working capital in an amount the authority determines to be reasonable;*
  - (e) Interest prior to and during construction, and, if approved by the authority, for a period up to two (2) years after completion of construction;*
  - (f) The cost of traffic estimates and of engineering, financial and legal services, plans, specifications, surveys, estimates of cost and of revenues, or other expenses necessary or incident to determining the feasibility or practicability of constructing any project;*
  - (g) The cost and expense of the relocation or removal of public utilities impacted by a project, including the cost of installing the facilities in a new location, and the cost of any lands, or any rights or interests in lands, and any other*

rights acquired to accomplish the relocation or removal;

(h) Administrative expenses, and any other expenses that are necessary for or incidental to the construction of a project, the financing of such construction, and the placing of the project in operation; and

(i) The cost of maintenance of the completed project.

Any obligation or expense incurred by and reimbursed to the Commonwealth in connection with any of the items of cost set out in this subsection may be regarded as a part of that cost;

(4) "Department" means the Department of Highways;

(5) "Local authority" means an authority created under the provisions of Section 5 of this Act;

(6) "Local government" means a consolidated local government, an urban-county government, a charter county government, a unified local government, a city, or a county;

(7) (a) "Project" means any highway or section of a highway designated as part of the federal interstate highway system or any highway or section of highway built to the standards of the interstate highway system:

1. That would be designated a mega-project by the Federal Highway Administration; and

2. That are constructed or financed by the authority under the provisions of this chapter.

(b) "Project" shall include all bridges, tollhouses, garages, and other buildings and facilities which the authority deems necessary for the operation of the project, together with all property, rights, easements, and interests which may be acquired by the authority or by the Commonwealth for the construction and operation of a project;

(8) "Project revenue bonds" means revenue funding bonds, revenue refunding bonds, notes, or other financial obligations of the authority issued under the provisions of

this chapter;

(9) "Public utility facilities" means tracks, pipes, mains, conduits, cables, wires, towers, poles and other equipment and appliances of any public utility in, on, along, over, or under any project; and

(10) "State authority" means the Kentucky Public Transportation Infrastructure Authority created under the provisions of Section 2 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 175B IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Public Transportation Infrastructure Authority is hereby established as an independent de jure municipal corporation and political subdivision of the Commonwealth constituting a governmental agency and instrumentality of the Commonwealth. The General Assembly hereby finds and declares that in carrying out its functions, powers, and duties as prescribed in this chapter, the state authority will be performing essential public and government functions that improve the public welfare and prosperity of the people of the Commonwealth by promoting the availability of and enhancing accessibility to improved transportation services within the Commonwealth.

(2) The state authority shall be composed of the following eleven (11) voting members, and the nonvoting ex officio members described in paragraph (g) of this subsection:

(a) The secretary of the Finance and Administration Cabinet, or the secretary's designee;

(b) The secretary of the Transportation Cabinet;

(c) A representative of the Kentucky Association of Counties, to be appointed by the Governor;

(d) A representative of the Kentucky County Judges/Executive Association, to be appointed by the Governor;

(e) A representative of the Kentucky League of Cities, to be appointed by the

Governor;

- (f) Six (6) citizen members to be appointed by the Governor, at least two (2) of whom shall be familiar with road and bridge design; and
- (g) The chairman of each local authority created pursuant to Section 5 of this Act who shall serve as nonvoting ex officio members of the state authority.
- (3) The ex officio members shall serve for the term of their respective offices.
- (4) Citizen members shall begin their terms on August 1, 2009, and shall be appointed for a term of four (4) years; however, in making initial appointments, the members appointed by the Governor shall include two (2) members for a term of two (2) years, two (2) members for a term of three (3) years, and two (2) members for a term of four (4) years.
- (5) Vacancies occurring during the term of any member shall be filled in the same manner as the original appointment.
- (6) The members of the state authority shall receive no compensation for their services, but shall be entitled to reimbursement for all reasonable expenses necessary and incidental to the performance of their duties and functions as members of the state authority.
- (7) (a) Members of the state authority shall be considered public servants subject to the provisions of KRS Chapter 11A.

(b) The following individuals or entities shall be prohibited from entering into any contract with the state authority:

  - 1. Any member of the state authority;
  - 2. Any spouse, child, stepchild, parent, stepparent, or sibling of a member of the state authority; and
  - 3. Any corporation, limited liability entity, or other business entity of which a person identified in subparagraph 1. or 2. of this paragraph is an owner, a member, a partner, or has any other ownership interest.
- (8) (a) The chairman of the state authority shall be the secretary of the

Transportation Cabinet.

- (b) The members of the state authority shall elect a vice chairman and a secretary from the membership.
- (9) The Finance and Administration Cabinet shall provide fiscal consultant services to the state authority.
- (10) The state authority shall hold its initial meeting no later than September 30, 2009, and shall meet at least quarterly thereafter, and with adequate notice at the call of the chair. A quorum of at least fifty percent (50%) of the members of the state authority must be present for the state authority to take any action. At least eight
- (8) members shall vote in the affirmative for the state authority to approve a new project. All other business shall be approved by a majority vote of the members present.
- (11) (a) The state authority shall establish and maintain an office and the secretary of the state authority shall maintain complete records of the state authority's actions and proceedings, as public records open to inspection.
- (b) The state authority shall employ staff as needed in the conduct of its duties and functions, and shall fix their compensation.
- (12) The state authority may promulgate administrative regulations as needed to fulfill the requirements of this chapter.

SECTION 3. A NEW SECTION OF KRS CHAPTER 175B IS CREATED TO READ AS FOLLOWS:

The state authority's primary purpose shall be to implement and facilitate the financing of major transportation projects and to hold ownership of selected projects. To further its primary purpose, the state authority may undertake other duties as needed to facilitate the construction of projects, in compliance with the Federal Highway Administration, and shall have the following powers:

- (1) To directly or indirectly construct, reconstruct, maintain, repair, operate, and regulate projects within the Commonwealth, or contract with another entity for

these services;

- (2) To issue project revenue bonds of the authority payable solely from the tolls, revenues, rentals, and other funds pledged for their payment, for the purpose of paying all or any cost of a project, and to refund any of its bonds;
- (3) To fix, revise, charge, and collect tolls for transit over any project constructed by it, and for any ancillary or connector routes affected by the project;
- (4) To combine more than one (1) project for financing purposes;
- (5) To establish and enforce rules and regulations for the use of a project;
- (6) To acquire and hold any of the following in the name of the authority, and to dispose of them as the authority deems necessary:
  - (a) Real and personal property including lands and structures;
  - (b) Rights;
  - (c) Rights-of-way;
  - (d) Franchises;
  - (e) Easements and other interests in lands, including lands lying under water and riparian rights; and
  - (f) Any other item or asset necessary to accomplish its mission;
- (7) To designate the locations and establish, limit, and control points of access to the project, and to prohibit access to the project from any undesignated point;
- (8) To make and enter into contracts and agreements in the performance of its duties and the execution of its powers under this chapter;
- (9) (a) To enter into interlocal agreements with other governmental entities, agreements with the United States government, and agreements with the state of Indiana for the financing and implementation of a project when necessary. The state authority shall not enter into an agreement with any other state to finance and implement any project without first receiving authorization from the General Assembly to do so.
  - (b) The state authority shall act on behalf of a local authority if an agreement

with Indiana or the United States government is required for a local project.

No local authority shall directly enter into an agreement pursuant to this subsection with Indiana or with the United States government.

(10) To employ any consultants determined necessary by the authority, and to fix their compensation;

(11) To receive and accept contributions and grants from any source for or in aid of the construction of a project or the operation of the authority;

(12) To expend any funds provided under this chapter in advertising the facilities and services of a project to the traveling public; and

(13) To do acts necessary or convenient to carry out the powers expressly granted in this chapter.

SECTION 4. A NEW SECTION OF KRS CHAPTER 175B IS CREATED TO READ AS FOLLOWS:

(1) The state authority shall evaluate the transportation needs within the Commonwealth to identify potential projects that meet the threshold established by the Federal Highway Administration for classification as a mega-project.

(2) To be considered for development by the state authority, projects shall be proposed by a local government that contains all or a portion of the proposed project and approved by the department. The authority shall coordinate with the department's six (6) year road plan to maximize road construction efficiency within the Commonwealth.

(3) Projects may be developed in conjunction with other road development efforts of the Commonwealth that are in compliance with Federal Highway Administration requirements.

(4) Prior to approval of the development and commencement of construction of any project to be developed by the state authority, the state authority and the department, in consultation with the governing body of each county and city that will contain any portion of a project, shall prepare a financial plan specifying the

construction and financing parameters of the project, including:

- (a) The maximum amount of per-vehicle tolls;
  - (b) The duration of the tolls;
  - (c) Expected amounts of transfers from the road fund to be used for project costs;
  - (d) Expected amounts of federal funds that will be used for project costs;
  - (e) Other sources of funds and expected amounts; and
  - (f) Other provisions relating to the construction and financing of the project.
- (5) Projects developed pursuant to this chapter shall comply with the requirements of KRS Chapters 45A, 174, and 176. Upon completion and approval of the financial plan, the authority and the department shall enter into a development agreement.

SECTION 5. A NEW SECTION OF KRS CHAPTER 175B IS CREATED TO READ AS FOLLOWS:

- (1) Except as provided in this section, all projects authorized by this chapter shall be supervised and managed by the state authority.
- (2) A project located in whole or in part in a local government may be locally managed and operated by a local authority as provided in this section.
- (3) (a) 1. If a proposed project is located wholly within a local government, the local government may, by resolution of its governing body, request that the Governor establish a local public infrastructure authority for the purpose of financing or constructing the project.
  - 2. If a proposed project is located in more than one (1) local government, each local government involved may, by resolution of its governing body, request that the Governor establish a single local public infrastructure authority for the purpose of financing or constructing the project. The Governor may act upon this request only if all local governments in which the proposed project is located request the establishment of the local authority.



- (b) The Governor may establish a local public infrastructure authority by executive order, which shall be confirmed by the General Assembly before it may be formally established using the same process as outlined for temporary reorganization orders under KRS 12.028.
- (c) A local authority created pursuant to this section shall be established as an independent de jure municipal corporation and political subdivision of the Commonwealth constituting a governmental agency and instrumentality of the Commonwealth. The local authority shall adopt a name that includes the name of the local government, the name of the project, and the words "Public Infrastructure Authority."
- (d) The General Assembly hereby finds and declares that in carrying out the functions, powers, and duties as prescribed in this chapter, a local authority created under this section will be performing essential public and government functions that improve the public welfare and prosperity of the people of the Commonwealth by promoting the availability of and enhancing accessibility to improved transportation services within the Commonwealth.
- (e) A local authority shall be composed of seven (7) members, three (3) of whom shall be appointed by the Governor and who shall reside in a county in which the project is located, and:
1. If the project is located wholly within a local government, four (4) of whom shall be appointed by the chief executive of the local government requesting the formation of the authority; or
  2. If the project is located in more than one (1) local government:
    - a. Two (2) of whom shall be appointed by the chief executive of the local government with the largest area encompassed by the project; and
    - b. Two (2) of whom shall be appointed by agreement of the chief executives of each local government with any area encompassed

by the project.

(f) Each of the four (4) initial local appointees to a local authority shall be for staggered terms of one (1), two (2), three (3), and four (4) years. Each of the three (3) initial gubernatorial appointees to a local authority shall be for staggered terms of one (1), two (2), and three (3) years. Thereafter, each member of the local authority shall be appointed for a period of four (4) years.

(g) Four (4) members of a local authority shall constitute a quorum for the transaction of business. The members of a local authority shall receive no compensation for their services in that capacity, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as members.

(h) 1. Members of a local authority shall be considered public servants subject to the provisions of KRS Chapter 11A.

2. The following individuals or entities shall be prohibited from entering into any contract with a local authority:

a. Any member of the local authority;

b. Any spouse, child, stepchild, parent, stepparent, or sibling of a member of the local authority; and

c. Any corporation, limited liability entity, or other business entity of which a person identified in subparagraph 1. or 2. of this paragraph is an owner, a member, a partner, or has any other ownership interest.

(i) 1. Within thirty (30) days of the effective date of the executive order confirming the establishment of a local authority, the local authority shall convene and organize. The local authority shall elect a chair and a vice chair who shall be members of the local authority and who shall be elected by a majority of the local authority members. The local

authority shall elect a secretary and a treasurer who shall not be members of the local authority, each of whom shall serve at the pleasure of the local authority and shall receive compensation as determined by the local authority to be paid by the local government requesting the local authority.

2. The treasurer shall give bond in an amount prescribed by the local authority to the local authority and the state conditioned upon a faithful accounting for all the funds coming into the treasurer's custody, with corporate surety given by a surety company qualified to do business in the state, the premium of which shall be paid by the local authority.

3. The local authority shall maintain an office in a premises provided by the local government without cost to the local authority, and the secretary of the local authority shall maintain in that office complete records of all the local authority's actions and proceedings, which shall be considered open records under KRS 61.870 to 61.878.

(4) (a) A local authority created pursuant to subsection (3) of this section, shall submit its proposal for a project to the state authority. In conjunction with the department, the state authority shall evaluate the proposal and how it coordinates with the six (6) year road plan. If the state authority determines the proposal is acceptable and the financing in the proposal is adequate, the proposal shall be approved.

(b) The state authority shall enter into a memorandum of agreement with the local authority to establish the terms and conditions under which a project will be undertaken. The memorandum of agreement shall determine the duties, responsibilities, powers, and authorities of the state authority, the local authority, and, as necessary, the cabinet with regard to the project.

(c) The provisions of this chapter relating to the duties, responsibilities, powers,

and authorities of the state authority shall apply to the local authority to the extent that the duties, responsibilities, powers, and authorities are required for the local authority to carry out its duties and responsibilities under the memorandum of agreement.

(d) After the proposed project has been approved, it shall not be changed or expanded without evaluation and approval by the state authority.

(e) The memorandum of agreement shall include, at a minimum, the terms required by subsection (4) of Section 4 of this Act.

(f) Upon retirement of all bonds associated with a project developed under this section, the ownership of the project shall be transferred to the state pursuant to Section 17 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 175B IS CREATED TO READ AS FOLLOWS:

(1) Tolls shall be fixed and adjusted by the authority to provide a fund sufficient with other revenues, if any, to:

(a) Pay the cost of maintaining, repairing, and operating the project, unless the cost or any part thereof is being paid by the Commonwealth as authorized by this chapter;

(b) Pay the principal of and the interest on the project revenue bonds; and

(c) Create operating reserves.

(2) Unless a transfer of ownership of a project occurs pursuant to Section 17 of this Act, the authority shall at all times maintain ownership and control of all tolls and other revenues generated by the project. Tolls shall not be subject to supervision or regulation by any other department, division, authority, board, bureau, or agency of a local government or of the Commonwealth.

(3) (a) The tolls and all other revenues derived from the project, except those revenues necessary to pay the cost of maintenance, repair, and operation and to establish and maintain reserves as may be provided for in the

authorization of the issuance of the project revenue bonds or in the trust indenture securing the project revenue bonds, shall be set aside in a sinking fund which shall be pledged to, and charged with, the payment of principal and interest on the project revenue bonds as they become due, and the redemption price or the purchase price of project revenue bonds retired by call or purchase as provided in the authorization of issuance.

(b) The pledge of the sinking fund shall be valid and binding from the time when the pledge is made.

(c) The tolls or other revenues received and pledged by the authority shall immediately be subject to the lien of the pledge without any physical delivery or further action, and the lien on any pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, whether the parties have received notice or not.

(d) Neither the proceedings nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the authority.

(e) The use and disposition of moneys to the credit of the sinking fund shall be subject to the provisions of the proceedings authorizing the issuance of the project revenue bonds or the trust indenture.

SECTION 7. A NEW SECTION OF KRS CHAPTER 175B IS CREATED TO READ AS FOLLOWS:

(1) The authority may enter into agreements with the department relating to the construction, oversight, operation, and maintenance of projects. An agreement shall include any provisions necessary to properly protect the autonomy of the authority, and may include any provisions agreed upon by the authority and the department.

(2) Each project, upon completion, shall continuously constitute a link between parts of the highway system of the Commonwealth, or between the Commonwealth and surrounding states, and shall always be open to public travel, subject to any tolls or

restrictions established by the authority. All projects shall be subject to evaluation and inspection by the department, and shall meet the standards for public roadways established by the department.

(3) Projects may be developed in coordination with existing and proposed public transit systems.

SECTION 8. A NEW SECTION OF KRS CHAPTER 175B IS CREATED TO READ AS FOLLOWS:

(1) A project financed by the authority may include construction of grade separations at intersections of any project or projects with public highways and changing and adjusting the lines and grades of the highways so as to accommodate them to the design of the grade separation, with the approval of the department.

(2) (a) If a project financed by the authority results in the need to change the location or grade of any portion of any public highway, it shall be reconstructed at a location that the authority and the department deem most favorable.

(b) Any highway relocated under this subsection shall be rebuilt of substantially the same type and in as good condition as the original highway.

(3) Any public highway affected by the construction of any project may be vacated or relocated as a part of the project, with the approval of the department, in the manner provided by law for the vacation or relocation of public roads.

(4) (a) The authority and its authorized agents and employees may with proper notice enter upon any lands, waters, and premises in the Commonwealth for the purpose of making any surveys, soundings, drillings and examinations necessary for the purpose of this chapter. This entry shall not be deemed a trespass, nor shall an entry for these purposes be deemed an entry under any condemnation proceedings which may be then pending.

(b) The authority shall reimburse the owners for any actual damage resulting to lands, waters, and premises as a result of these activities on behalf of the

authority.

- (5) (a) 1. The authority may promulgate administrative regulations for the installation, construction, maintenance, repair, renewal, relocation, and removal of public utility facilities.
2. Whenever the authority determines that it is necessary for any public utility facilities which now are located in, on, along, over, or under the project to be relocated or be removed, the public utility owning or operating the facilities shall relocate or remove them in accordance with the order of the authority and in compliance with the requirements of the Public Service Commission.
- (b) In case of a relocation or removal of facilities, the public utility owning or operating the facility and its successors or assigns, may maintain and operate these facilities and the necessary appurtenances in the new location, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate the facilities in the former location.
- (c) 1. A utility may establish its lines or properties within the right of way of a project which has been constructed or is owned, maintained, or operated by the authority, only upon approval by the authority.
2. A utility may connect its lines with businesses and other installations permitted by the authority to exist upon the right of way of the project.
- (6) The authority may contract with any person, partnership, association, or corporation desiring the incidental use of any part of the project, including the right-of-way adjoining the project, for the limited purpose of placing telecommunications equipment, power lines, or other utilities, and to fix the terms, conditions, rents, and rates of charges for that use.

SECTION 9. A NEW SECTION OF KRS CHAPTER 175B IS CREATED TO READ AS FOLLOWS:

The Commonwealth may enter into agreements with the authority regarding the use of

any lands owned by it, including lands lying under water, which are deemed by the authority to be necessary for the construction or operation of any project.

SECTION 10. A NEW SECTION OF KRS CHAPTER 175B IS CREATED TO READ AS FOLLOWS:

- (1) (a) 1. The authority may, by resolution, authorize the issuance of project revenue bonds for the purpose of paying the cost of a project.
2. The principal of and the interest on the project revenue bonds shall be payable solely from the funds provided for the payment.
3. The bonds of each issue:
- a. Shall be dated;
  - b. Shall bear interest at a rate or method of determining rates;
  - c. Shall mature at a time not exceeding forty (40) years from their issuance date, as determined by the authority; and
  - d. May be redeemable before maturity, at the option of the authority, at a price and under terms and conditions as may be fixed by the authority prior to the issuance of the project revenue bonds.
4. The authority shall:
- a. Determine the form of the bonds;
  - b. Fix the denomination of the bonds; and
  - c. Fix the place of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth.
- (b) 1. The project revenue bonds shall be signed by the chairman of the authority or shall bear the chairman's facsimile signature, and the seal of the authority or a facsimile shall be affixed to the project revenue bonds and attested by the secretary of the authority.
2. If any officer whose signature or a facsimile of whose signature appears on any project revenue bonds ceases to be an officer before the



delivery of the project revenue bonds, the signature or facsimile shall be valid and sufficient for all purposes as if the officer had remained in office until the delivery.

3. All project revenue bonds issued under the provisions of this chapter shall have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth.

4. The project revenue bonds shall be issued in registered form.

5. The authority may sell the project revenue bonds in a manner, either at public or private sale, and for a price as it determines will best carry out the purposes of this chapter.

(2) (a) The proceeds of the project revenue bonds of each issue shall be used solely for the payment of the cost of the project or projects for which the bonds were issued, and shall be disbursed in a manner and under the restrictions the authority provides in the resolution authorizing the issuance of the project revenue bonds or in the trust agreement securing the project revenue bonds.

(b) If the proceeds of the project revenue bonds of any issue, by error of estimates or otherwise, are less than the cost of the project or projects, additional project revenue bonds may be issued to provide the amount of the deficit, and, unless otherwise provided in the resolution authorizing the issuance of the project revenue bonds or in the trust agreement securing the project revenue bonds, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the project revenue bonds first issued.

(c) If the proceeds of the project revenue bonds of any issue exceed the cost, the surplus shall be deposited to the credit of the sinking fund required by subsection 3(a) of Section 6 of this Act for the project revenue bonds or any account or accounts the authority shall have provided for in the proceedings or trust indenture authorizing and securing the project revenue bonds.

(3) Project revenue bonds shall be issued in compliance with KRS 42.420 and KRS 45A.840 to 45A.879. Except for the provisions of KRS 42.420 and KRS 45A.840 to 45A.879, project revenue bonds may be issued under the provisions of this chapter without obtaining the consent of any local government, department, division, authority, board, bureau, or agency of the Commonwealth, or of the Commonwealth, and without any other proceedings or conditions other than those proceedings or conditions which are specifically required by this chapter.

SECTION 11. A NEW SECTION OF KRS CHAPTER 175B IS CREATED TO READ AS FOLLOWS:

- (1) Project revenue bonds issued by the authority under the provisions of this chapter shall not constitute a debt of the Commonwealth or any of its political subdivisions, or a pledge of the faith and credit of the Commonwealth or any of its political subdivisions. Project revenue bonds issued pursuant to this chapter shall be payable solely from the funds provided for in this chapter.
- (2) Project revenue bonds shall contain on their face a statement to the effect that neither the Commonwealth nor the authority shall be obligated to pay the bonds or the interest thereon except from any and all revenues associated with the project for which they are issued, and that neither the faith and credit nor the taxing power of the Commonwealth is pledged to the payment of the principal of or the interest on these project revenue bonds.

SECTION 12. A NEW SECTION OF KRS CHAPTER 175B IS CREATED TO READ AS FOLLOWS:

- (1) (a) Any project revenue bonds issued under the provisions of this chapter may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. Subject to the restrictions established in Section 10 of this Act, the trust indenture or other document providing for the issuance of the project revenue bonds may pledge

or assign the tolls and other revenues to be received, but shall not convey or mortgage any project or any part of a project.

(b) The trust indenture or other document may contain any provisions for protecting and enforcing the rights and remedies of the bondholders as are reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation, and insurance of the project for which the project revenue bonds were authorized; the rates of toll or rentals to be charged; and the custody, safeguarding, and application of all moneys.

(2) Any bank or trust company incorporated under the laws of the Commonwealth which acts as depository of the proceeds of project revenue bonds or of revenues may furnish indemnifying project revenue bonds or pledge securities as the authority requires. Any such trust indenture may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. Any trust indenture or proceedings may contain any other provisions that the authority deems reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of the trust indenture or proceedings may be treated as a part of the cost of the operation of the project.

SECTION 13. A NEW SECTION OF KRS CHAPTER 175B IS CREATED TO READ AS FOLLOWS:

(1) All moneys received under the provisions of this chapter, whether as proceeds from the sale of project revenue bonds or revenues, shall be trust funds to be held and applied solely as provided in this chapter. The trust indenture or any other document authorizing the issuance of project revenue bonds or the collection of any revenues shall provide that any officer, bank, or trust company with which the moneys shall be deposited shall act as trustee of the moneys and shall hold and

apply them for the purposes outlined in this chapter, subject to the provisions of this chapter and the proceedings or trust indenture

- (2) The proceeds of project revenue bonds shall only be invested in direct obligations of the United States of America and direct federal agency obligations or other similar obligations to the extent that the full faith and credit of the United States of America is pledged for the timely payment thereof. Direct obligations shall include money market mutual funds that invest solely in the obligations referenced in this subsection.

SECTION 14. A NEW SECTION OF KRS CHAPTER 175B IS CREATED TO READ AS FOLLOWS:

The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions. Because the operation and maintenance of projects by the authority will constitute the performance of essential governmental functions:

- (1) The authority shall not be required to pay any taxes or assessments upon any project or any property acquired or used by the authority under the provisions of this chapter or upon the income therefrom; and
- (2) The project revenue bonds issued under the provisions of this chapter, their transfer and the income therefrom, shall at all times be free from taxation within the Commonwealth.

SECTION 15. A NEW SECTION OF KRS CHAPTER 175B IS CREATED TO READ AS FOLLOWS:

Project revenue bonds issued by the authority under the provisions of this chapter shall be securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, trustees and other fiduciaries, and all other persons who are authorized to invest in bonds or other similar obligations, including capital in

their control or belonging to them, are authorized to invest. The project revenue bonds shall be securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or other obligations of the Commonwealth is now or may hereafter be authorized by law.

SECTION 16. A NEW SECTION OF KRS CHAPTER 175B IS CREATED TO READ AS FOLLOWS:

- (1) Each project constructed or operated under the provisions of this chapter shall be maintained and kept in good condition and repair by the authority. The authority may contract with the department or with any local highway department for maintenance of a project.
- (2) All private property damaged or destroyed in carrying out the powers granted by this chapter shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation shall be made out of funds provided under this chapter.
- (3) All counties, cities, towns, and other political subdivisions and all public agencies and commissions of the Commonwealth, notwithstanding any contrary provision of law, may lease, lend, grant, or convey to the authority any real property which may be necessary or convenient to the effectuation of the authorized purposes of the authority, including public roads and other real property already devoted to public use.
- (4) In obtaining property under this chapter the authority shall pursue the acquisition under the procedures and mandates of KRS 416.540 to 416.670.

SECTION 17. A NEW SECTION OF KRS CHAPTER 175B IS CREATED TO READ AS FOLLOWS:

- (1) Not more than one (1) year prior to the scheduled retirement of all bonds issued to finance a project, the department shall undertake an evaluation of the condition of the project to determine if the project has significant maintenance, reconstruction,

or rebuilding needs. The evaluation shall be completed no less than one hundred and eighty (180) days prior to the scheduled retirement of the bonds.

- (2) If significant maintenance, reconstruction, or rebuilding is needed, the department shall determine if funds and reserves held by the authority for the project are adequate to accomplish the maintenance, reconstruction, or rebuilding. If additional funds are needed, additional bonds shall be authorized and issued by the same entity that issued the original bonds for the project, pursuant to the provisions of this chapter.
- (3) Tolls for the project shall continue until all bonds are retired, unless prior discontinuance of tolls is authorized by the department or the General Assembly. Tolls for the project shall be continued until all bonds are retired, unless an alternative funding source is provided by the General Assembly that preserves or enhances the existing credit of bonds not yet retired.
- (4) Notwithstanding any other provisions of this chapter, any portion of a project financed by the authority shall become the property of the Commonwealth upon the retirement of all bonds issued to finance the project.
- (5) Upon the transfer of any project to the Commonwealth pursuant to this section, the department shall evaluate the need for the continuance of any tolls. Tolls may be continued if significant rebuilding, expansion, or maintenance is needed. Tolls collected after ownership of a project has transferred to the Commonwealth shall be deposited into the road fund and used for current and future costs of the project including maintenance, expansion, rebuilding, reconstruction, or other similar purposes.
- (6) When the authority has transferred a project to the Commonwealth pursuant to this section, remaining fund reserves relating to that project shall be transferred to the road fund.

SECTION 18. A NEW SECTION OF KRS CHAPTER 175B IS CREATED TO  
READ AS FOLLOWS:

- (1) Within ninety (90) days after the expiration of each fiscal year, the state authority and any local authority created under Section 5 of this Act shall make an annual report of its activities for the preceding fiscal year to the Controller of the Commonwealth within the Finance and Administration Cabinet, the Transportation Cabinet, and the Legislative Research Commission. The report shall set forth a complete operating and financial statement covering its operation during the fiscal year.
- (2) The authority shall cause an audit of its books and accounts to be made at least once each year, and the cost thereof may be treated as a pro-rata part of the cost of operation of each project.
- (a) A request shall be made to the Auditor of Public Accounts for the performance of an annual audit. If the Auditor of Public Accounts declines in writing to assume responsibility for performing the audit or fails to respond in writing within thirty (30) days of receiving the request, the authority may enter into a contract with a certified public accountant for an audit.
- (b) Any contract with a certified public accountant entered into as a result of the Auditor of Public Accounts either declining to assume responsibility of performing the audit or failing to respond within thirty (30) days of receipt of a written request for an audit shall specify the following:
1. That the certified public accountant shall forward a copy of the audit report and management letters to the Auditor of Public Accounts for review;
  2. That the Auditor of Public Accounts may review the certified public accountant's work papers; and
  3. That after review of the certified public accountant's work papers, if discrepancies are found, the Auditor of Public Accounts shall notify the audited entity of the discrepancies. If the certified public accountant

does not correct these discrepancies prior to the release of the audit, the Auditor of Public Accounts may conduct its own audit to verify the findings of the certified public accountant's report.

(c) If an audit verifying the findings of the certified public accountant's report is conducted by the Auditor of Public Accounts, the total audit expense incurred shall be an allowable expenditure and shall be paid to the Auditor of Public Accounts. If the audit conducted by the Auditor of Public Accounts discloses discrepancies in the audit by the certified public accountant, the findings of the Auditor of Public Accounts shall be deemed official for all purposes.

(d) Notwithstanding any other provision of this section, any portion of the books and records of the authority that relate to a multistate agreement shall be audited by a certified public accountant and not by the Auditor of Public Accounts.

SECTION 19. A NEW SECTION OF KRS CHAPTER 175B IS CREATED TO READ AS FOLLOWS:

Officers or employees of the authority shall not have any direct interest in the sale or purchase of any project revenue bonds authorized by this chapter. Violation of this section shall be punishable by fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than one (1) year, or both.

SECTION 20. A NEW SECTION OF KRS CHAPTER 175B IS CREATED TO READ AS FOLLOWS:

Board members, officers, and employees of the authority shall be indemnified from liability asserted by any person on the bonds or notes of the authority, or any personal liability or accountability by reason of:

(1) The issuance of bonds, notes, or guarantees;

(2) The acquisition, construction, ownership, or operation of any project funded in whole or part by the authority; or



**(3) Any other action taken or the failure to act by the authority.**

SECTION 21. A NEW SECTION OF KRS CHAPTER 175B IS CREATED TO READ AS FOLLOWS:

**For a project for which preliminary planning or other work has been undertaken prior to the establishment of the authority, the authority shall be bound by all previous agreements, records of decision, or contracts entered into by the Commonwealth.**

Section 22. KRS 176.420 is amended to read as follows:

- (1) The Department of Highways shall undertake a continuing study of the needs of the highways under its jurisdiction for the purpose of bringing existing facilities to acceptable standards or for the replacement of existing facilities where required.
- (2) The Department of Highways shall submit the six (6) year road plan to the General Assembly within ten (10) working days of submission of the executive budget by the Governor to each even-numbered-year regular session of the General Assembly pursuant to KRS 48.100. The six (6) year road plan submitted shall be divided into six (6) sections as follows:
  - (a) The first section shall set forth the cabinet's revenue estimates and assumptions used in developing the six (6) year road plan.
  - (b) The second section shall list the projects identified in the six (6) year road plan as defined in KRS 176.419.
  - (c) The third section shall be the list of projects targeted for potential advancement, which is identified in KRS 176.430(1).
  - (d) The fourth section shall specify statewide projects that are listed under "ZVARIOUS 99" category.
  - (e) The fifth section shall provide a comparison of the proposed six (6) year road plan to the six (6) year road plan enacted the previous biennium by the General Assembly. The comparison shall include a justification statement documenting the reason any project in the previously enacted six (6) year road plan was deleted from the proposed plan.

- (f) The sixth section shall list by county all active road construction projects that are not included in the plan or are not shown in the plan submitted to the General Assembly because funding has been authorized for the project or work has been initiated on the project.
- (3) The department shall provide the General Assembly an electronic version of the six (6) year road plan as defined in KRS 176.419 at the same time the department submits the printed six (6) year road plan to the General Assembly under subsection (2) of this section. The information shall be in a form cooperatively developed by the Transportation Cabinet and the General Assembly and approved by the Legislative Research Commission.
- (4) The department shall include in the six (6) year road plan an evaluation of projects that shall be developed or financed by the Kentucky Public Transportation Infrastructure Authority established in Section 2 of this Act.**

Section 23. The following KRS sections are repealed:

- 181.850 Bridge commissions in cities of first class or consolidated local government.
- 181.851 Definitions for KRS 181.850 to 181.869.
- 181.852 General grant of powers.
- 181.853 Acquisition of property.
- 181.854 Bridge revenue bonds.
- 181.855 Trust agreement.
- 181.856 Revenues.
- 181.857 Trust funds.
- 181.858 Remedies of bond or coupon holders.
- 181.859 Bridge commission property and bonds exempt from taxation.
- 181.860 Bonds eligible for investment.
- 181.861 Maintenance of bridges.
- 181.862 Restoration of or compensation for private property damaged or destroyed.
- 181.863 Authority of counties, cities and other political subdivisions to lease, lend or sell

property to commission.

181.864 Annual report and audit.

181.865 Commission officer or employee not to have interest in sale or purchase of bonds.

181.866 Bridge revenue refunding bonds.

181.867 Credit of city not pledged.

181.868 Reversion of existing bridges.

181.869 Provisions of KRS 181.850 to 181.869 deemed to prescribe alternative method of providing bridges.