Commonwealth of Kentucky

EDUCATIONAL BULLETIN

KENTUCKY COMMON SCHOOL LAWS 1946

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Periodical Librarian
University of Kentucky
Lexington, Ky.

Published by

DEPARTMENT OF EDUCATION

JOHN FRED WILLIAMS

Superintendent of Public Instruction

ISSUED MONTHLY

Entered as second-class matter March 21, 1933, at the post office at Frankfort, Kentucky, under the Act of August 24, 1912.

Vol. XIV May, 1946 No. 3

PERRY PUBLISHING COMPANY
FRANKFORT, KENTUCKY
PRINTERS TO THE COMMONWEALTH OF KENTUCKY

FOREWORD

This volume of school laws has been prepared in compliance with Section 156.240, Kentucky Revised Statutes, which imposes upon the Superintendent of Public Instruction the duty of preparing for publication by the State Board of Education the school laws of the Commonwealth.

This compilation of statutes and the annotations of court decisions were prepared by Gordie Young, Assistant Superintendent of Public Instruction. It includes school laws of the Commonwealth, including the Acts of the General Assembly of 1946. The annotated decisions of the Court of Appeals have been arranged immediately following sections which they interpret. Some of these decisions may not apply to the specific section which they follow because of the fact that the whole of the Kentucky Statutes was revised at the 1942 session of the Legislature. They are so applicable, in whole or in part, as to furnish valuable information in the proper interpretation of the specific section.

By referring to the tops of the pages, one may determine what sections of law are included on the two pages.

This volume is the property of the Commonwealth of Kentucky and is published as a handbook to aid school officials as well as others interested in school matters.

JOHN FRED WILLIAMS
Superintendent of Public Instruction

Sec. 55, Ky. Const. Law; When to Take Effect; Emergency Clause.—No act, except general appropriation bills, shall become a law until ninety days after the adjournment of the session at which it was passed, except in cases of emergency, when, by the concurrence of a majority of the members elected to each House of the General Assembly, by a yea and nay vote entered upon their journals an act may become a law when approved by the Governor; but the reasons for the emergency that justifies this action must be set out at length in the journal of each House.

Ficke, et al. v. Board of Trustees of Erlanger Consolidated Graded School District, 262 Ky. 312. School districts have liens on personal property. If Governor neither approves nor disapproves act with emergency clause it becomes effective when returned to Secretary of State's Office.

Emergency statute declaring inadequacy of existing remedies and intention to provide additional remedies for collecting school taxes held intended to apply retroactively. (Jan. 24, 1936.)

Sec. 59, Ky. Const. Local and Special Legislation; Limitations Upon.—The General Assembly shall not pass local or special acts concerning any of the following subjects, or for any of the following purposes, namely:

(25) To provide for the management of common schools.

Johnson, Governor v. Commonwealth ex rel. Meredith, Atty. Gen., 291 Ky. 829. State executive departments, boards, or commissions may be represented by an attorney other than the Attorney General. (August 26, 1942.)

Stone v. Wilson, 102 Ky. 423, 43 S. W. 397. Local or special legislation applies exclusively to special or particular places, or special or particular persons, and is distinguished from the statute intended to be general in its operation and that relating to classes of persons or subjects.

Sec. 91, Ky. Const. Treasurer; Auditor; Register; Commissioner of Agriculture; Secretary of State; Attorney General; Superintendent of Public Instruction.—A treasurer, auditor of public accounts, register of the land office, commissioner of agriculture, labor and statistics, secretary of state, attorney-general and **superintendent of public instruction,** shall be elected by the qualified voters of the state at the same time the Governor is elected, for the term of four years, each of whom shall be at least thirty years of age at the time of his election, and shall have been a resident citizen of the state at least two years next before his election. The duties of all these officers shall be such as may be prescribed by law, and the secretary of state shall keep a fair register of and attest all the official acts of the Governor, and shall, when required, lay the same and all papers, minutes and vouchers relative thereto before either house of the General Assembly. **The officers named in this section shall enter upon the discharge of their duties the first Monday in January after their election, and shall hold their offices until their successors are elected and qualified.**

Johnson, Governor v. Commonwealth ex rel. Meredith, Atty. Gen., 291 Ky. 829. State executive departments, boards, or commissions may be represented by an attorney other than the Attorney General. (August 26, 1942.)

Sec. 93, Ky. Const. Officers Ineligible for Succeeding Term; Duties; Inferior Officers.—The treasurer, auditor of public accounts, secretary of state, commissioner of agriculture, labor and statistics, attorney-general, **superintendent of public instruction,** and register of the land office **shall be ineligible to re-election** for the succeeding four years after the expiration of the term for which they shall have been elected. The duties and responsibilities of these officers shall be prescribed by law, and all fees collected by any of said officers shall be covered into the treasury. Inferior state officers, not specifically provided for in this constitution, may be appointed or elected, in such a manner as may be prescribed by law, for a term not exceeding four years, and until their successors are appointed or elected and qualified.

Sec. 95, Ky. Const. Time of Election.—The election under this Constitution for Governor, Lieutenant Governor, Treasurer, Auditor of Public Accounts, Register of the Land Office, Attorney-General, Secretary of State, Superintendent of Public Instruction, and Commissioner of Agriculture, Labor and Statistics, shall be held on the first Tuesday after the first Monday in November, eighteen hundred and ninety-five, and the same day every four years thereafter.

Sec. 96, Ky. Const. Payment of salaries. All officers mentioned in section ninety-five shall be paid for their services by salary, and not otherwise.

Sec. 152, Ky. Const. Vacancies in Office; How Filled.—Except as otherwise provided in this constitution, vacancies in all elective offices shall be filled by election or appointment, as follows: If the unexpired term will end at the next succeeding annual election at which either city, town, county, district or state officers are to be elected, the office shall be filled by appointment for the remainder of the term. If the unexpired term will not end at the next suceeding annual election at which either city, town, county, district or state officers are to be elected, and if three months intervene before said succeeding annual election at which either city, town, county, district or state officers are to be elected, the office shall be filled by appointment until said election, and then said vacancy shall be filled by election for the remainder of the term. If three months do not intervene between the happenings of said vacancy and the next

succeeding election at which city, town, county, district or state officers are to be elected, the office shall be filled by appointment until the second succeeding annual election at which city, town, county, district or state officers are to be elected; and then, if any part of the term remains unexpired, the office shall be filled by election until the regular time for the election of officers to fill said offices. Vacancies in all offices for the state at large, or for districts larger than a county, shall be filled by appointment of the Governor; all other appointments shall be made as may be prescribed by law. No person shall ever be appointed a member of the General Assembly, but vacancies therein may be filled at a special election, in such manner as may be provided by law. See Secs. K.R.S. 446.010, 61.020, 63.190.

Sec. 155, Ky. Const. Sections 145 to 154 Do Not Apply to Election of School Trustees.—The provisions of sections one hundred and forty-five to one hundred and fifty-four, inclusive, shall not apply to the election of school trustees and other common school district elections. Said elections shall be regulated by the General Assembly, except as otherwise provided in this Constitution.

Sec. 157, Ky. Const. Tax Rate; Indebtedness; Submission of Question to Voters.—The tax rate of cities, towns, counties, taxing districts and other municipalities, for other than school purposes, shall not, at any time, exceed the following rates upon the value of the taxable property therein, viz.: For all towns or cities having a population of fifteen thousand or more, one dollar and fifty cents ($1.50) on the hundred dollars ($100.00); for all towns or cities having less than fifteen thousand and not less than ten thousand, one dollar on the hundred dollars ($100.00); for all towns or cities having less than ten thousand, seventy-five cents (75c) on the one hundred dollars ($100.00) and for counties and taxing districts, fifty cents (50c) on the hundred dollars; unless it should be necessary to enable such city, town, county, or taxing district to pay the interest on, and provide a sinking fund for the extinction of indebtedness contracted before the adoption of this Constitution. No county, city, town, taxing district, or other municipality shall be authorized or permitted to become indebted in any manner or for any purpose, to an amount exceeding in any year, the income and revenue provided for such year, without the assent of two-thirds of the voters thereof, voting at an election to be held for that purpose; and any indebtedness contracted in violation of this section shall

be void. Nor shall such contract be enforceable by the person with whom made; nor shall such municipality ever be authorized to assume the same.

Dodge v. Jefferson County Board of Education, 298 Ky. 1. The expenditure by Jefferson County Board of Education, for maintenance of a recreational plan, of tax funds collected for educational purposes, common school purposes, and the common school system, is not violative of constitutional provisions that taxes collected for such purposes should not be applied to other purposes, since the terms "education," "common school purpose," and "common school system" embrace recreational training. (June 23, 1944.)

Blancett v. Leet, et al., 297 Ky. 141. Where board of education made no expenditures in excess of those shown by budget and floating indebtedness was the aggregate of annual deficiencies in tax collection, plus interest accumulated thereon, the floating indebtedness was not incurred in excess of "income and revenue" within constitutional provision establishing maximum indebtedness and therefore the indebtedness was fundable. (March 24, 1944.)

Rowan County Board of Education v. Citizens Bank, et al., 279 Ky. 413. This suit tests the validity of a proposed bond issue of the county board of education. Judgment of the lower court affirmed and the issue of bonds of $62,500 is thereby approved. (June 23, 1939.)

Citizens' Bank v. Rowan County Board of Education, 274 Ky. 481. Warrants issued over a period of six years for governmental expenses of board of education and which did not exceed, with prior indebtedness, the revenue that could be lawfully anticipated for the particular year, were valid obligations when issued, and hence a note by which warrants were taken up was valid regardless of whether amount of note exceeded the anticipated revenue for the year in which note was executed. (June 24, 1938.)

Abbott, et al. v. Oldham County Board of Education, 272 Ky. 654. If outstanding indebtedness when created did not exceed anticipated revenue as shown by budget and money was expended for lawful purposes, funding bonds may be issued and proceeds applied to reduction of said indebtedness. (May 5, 1938.)

Scott County Board of Education v. McMillen, 270 Ky. 483. The plan of the county board of education providing for conveyance to holding corporation properties which were to be jointly mortgaged to secure payment of bonds, was not invalid because all properties were jointly subject to lien for payment of bonds or because provision for refunding of any taxes paid by bondholders if annual payment was within board's unencumbered annual income. (Nov. 5, 1937.)

Bales v. Holt, County School Superintendent, et al., 270 Ky. 272. County board of education should assume indebtedness of the independent district which becomes part of the county district. (Oct. 22, 1937.)

Fiscal Court of Jackson County, et al. v. Board of Education of Jackson County, 269 Ky. 258. Board of Education authorized to convey school site to fiscal court for purpose of issuing bonds to finance construction of school building. (June 15, 1937.)

Fiscal Court of Jackson County, et al. v. Board of Education of Jackson County, 268 Ky. 336. This contract to lease a building provides for continuance from year to year and is illegal. It could be remedied by making lease for one year.

Meade v. Board of Education of Johnson County, et al., 268 Ky. 71. Board of education has legal authority to issue bonds to refund validly created indebtedness.

Lee v. Board of Education of Bell County, 261 Ky. 379. Debt which arose from unexpected decrease in value of property of county school district held a valid obligation as regards validity of bonds authorized to fund such obligations. (Nov. 19, 1935.)

Davis v. Board of Education of City of Newport, et al., 260 Ky. 294. Thirty-year lease of school building to board on condition of paying $15,000 a year until all rentals paid on condition that building would be conveyed to board held unconstitutional. Lease of building to board by city for annual rental which does not exceed budget for year constitutional. (May 31, 1935.)

City of Frankfort v. Fuss, et al., 235 Ky. 143. This case very similar to Hogan v. Lee Fiscal Court, et al., 235 Ky. 100, and was decided on the same day, June 20, 1930. It contains the dissenting opinion in detail by Chief Justice Thomas and Judges Rees and Dietzman. The county board of education being purely an administrative body and without tax levying authority, can expend only such revenue as comes to it through the channels of law. It has no authority to expend any sum over and above the amount that it obtains by submission of its budget to the fiscal court. (June 20, 1930.)

Hogan v. Lee Fiscal Court, et al., 235 Ky. 100. Amount of indebtedness counties may incur depends on how much revenue would have been raised by imposing full constitutional tax rate and not actual revenue. County may fund legally created indebtedness by issuing bonds. Dissenting opinion given by Chief Justice Thomas and Judges Rees and Dietzman. (June 20, 1930.)

Billings v. Bankers Bond Co., 199 Ky. 490, 251 S. W. 643. A certain contract in which a board of education under the guise of Reynolds, attempted to secure

the erection of a school building, for an amount in excess of the revenues for the current year, was invalid.

Fall v. Read, 194 Ky. 135, 238 S. W. 177. The outstanding indebtedness of a city is not to be considered in determining indebtedness that may be incurred by a school district of which the city forms a part.

Flanders v. Board of Trustees of Little Rock Graded School, 170 Ky. 627, 186 S. W. 506. If a municipality creates a debt greater than the income and revenue for such year without the assent of the voters, the same is in violation of this section, although the amount is divided in equal installments, payable in a series of years.

Sec. 158, Ky. Const. Indebtedness; Limit of Allowed; Issual of Bonds.—The respective cities, towns, counties, taxing districts, and municipalities shall not be authorized or permitted to incur indebtedness to an amount, including existing indebtedness, in the aggregate exceeding the following named maximum percentage on the value of the taxable property therein, to be estimated by the assessment next before the last assessment previous to the incurring of the indebtedness, viz.: Cities of the first and second classes, and of the third class having a population exceeding fifteen thousand, ten per centum; cities of the third class having a population of less than fifteen thousand, and cities and towns of the fourth class, five per centum; cities and towns of the fifth and sixth classes, three per centum; and counties, taxing districts and other municipalities, two per centum: Provided, Any city, town, county, taxing district or other municipality may contract an indebtedness in excess of such limitations when the same has been authorized under laws in force prior to the adoption of this Constitution, or when necessary for the completion of and payment for a public improvement undertaken and not completed and paid for at the time of the adoption of this Constitution: And provided further, If, at the time of the adoption of this Constitution, the aggregate indebtedness, bonded or floating, of any city, town, county, taxing district, or other municipality, including that which it has been or may be authorized to contract as herein provided, shall exceed the limit herein prescribed, then no such city or town shall be authorized or permitted to increase its indebtedness in an amount exceeding two per centum, and no such county, taxing district or other municipality, in an amount exceeding one per centum, in the aggregate upon the value of the taxable property therein, to be ascertained as herein provided, until the aggregate of its indebtedness shall have been reduced below the limit herein fixed, and thereafter it shall not exceed the limit, unless in case of emergency, the public health or safety should so require. Nothing herein shall prevent the issue of renewal bonds, or bonds to fund the floating indebtedness of any city, town, county, taxing district or other municipality.

Blancett v. Leet, et al., 297 Ky. 141. Where board of education made no expenditures in excess of those shown by budget and floating indebtedness was the aggregate of annual deficiencies in tax collection, plus interest accumulated thereon, the floating indebtedness was not incurred in excess of "income and revenue" within constitutional provision establishing maximum indebtedness and therefore the indebtedness was fundable. (March 24, 1944.)

Board of Education of Kenton County v. Highland Cemetery, 292 Ky. 374. Board of education must spend funds for purposes for which they were voted or levied. Where board used funds for general purposes which were collected over and above what was needed for bonds and did not pay bonds it cannot refuse to pay bonds when due, etc. (December 8, 1942.)

Whitworth v. Breckinridge County Board of Education, 276 Ky. 346. Board of Education may refund a funded legal debt and add to the original debt the accumulated interest which it has been unable to pay because of lack of income therefor. (Jan. 17, 1939.)

Arrowood v. Board of Education of Paintsville Graded School District, 271 Ky. 812. The board of education is limited in its annual spending to its budgeted revenue. The board has the burden of establishing the validity of indebtedness, A proposed issue of school bonds to fund an alleged indebtedness will be approved so far as such consisted of a final judgment in a bona fide suit against the school board. (March 24, 1938.)

Runyon v. Simpson, Mayor, et al., 270 Ky. 646. "The lapse of eight years between election authorizing bond sale and proposed issue of same did invalidate them if indebtedness is legal. (Nov. 16, 1937.)

Sec. 165, Ky. Const. Incompatible Offices; State.—No person shall, at the same time, be a state officer or a deputy officer, or member of the General Assembly, and an officer of any county, city, town or other municipality, or an employee thereof; and no person shall, at the same time, fill two municipal offices, either in the same or different municipalities, except as may be otherwise provided in this Constitution; but a Notary Public, or an officer of the milita, shall not be ineligible to hold any other office mentioned in this section.

Knuckles v. Board of Education of Bell County, 272 Ky. 436. Position of superintendent or assistant superintendent is incompatible with that of teacher in the public schools. (April 21, 1938.)

Polley v. Fortenberry, et al., 268 Ky. 369. Constitution nor statutes prohibit holding two state offices or employment at same time. Office of member of county board of education is not incompatible with maintenance supervisor of roads. (May 4, 1937.)

Board of Trustees of Fairview Graded Common School District, et al. v. Renfro, 259, 644. Principal of a school a state employee and not disqualified to be employed by trustees even though he was a member of the General Assembly. (May 28, 1935.)

Sec. 169, Ky. Const. Fiscal Year.—The fiscal year shall commence on the first day of July of each year, unless otherwise provided by law.

Sec. 179, Ky. Const. School District Not To Lend Credit Or Become Stockholder in Corporation.—The General Assembly shall not authorize any county or subdivision thereof, city, town, or incorporated district, to become a stockholder in any company, association or corporation, or to obtain or appropriate money for, or to loan its credit to, any corporation, association or individual, except for the purpose of constructing or maintaining bridges, turnpike roads, or gravel roads: Provided, if any municipal corporation shall offer to the Commonwealth any property or money for

locating or building, a Capitol, and the Commonwealth accepts such offer, the corporation may comply with the offer.

Board of Education of City of Corbin v. City of Corbin, et al., 301 Ky. 686. Section 179 Constitution prohibits city from giving to the Board of Education of that city certain of its income to be used for school purposes. For example: Income from municipally owned water and light plants. (February 26, 1946.)

Sec. 180, Ky. Const. Purpose of Levy to be Stated.—The General Assembly may authorize the counties, cities or towns to levy a poll tax not exceeding one dollar and fifty cents per head. Every act enacted by the General Assembly, and every ordinance and resolution passed by any county, city, town or municipal board or local legislative body levying a tax shall specify distinctly the purpose for which said tax is levied, and no tax levied and collected for one purpose shall ever be devoted to another purpose.

Nichols. et al. v, Henry, 301 Ky. 434. The statute providing supplementary transportation for children attending school in compliance with compulsory school attendance laws, providing for payment of such transportation from general funds of county, making transportation available to children attending common, private, sectarian, or parochial schools, is tax legislation for a public purpose and is not violative of constitutional provision prohibiting special privilege or requiring tax levies for public purposes only. (November 27. 1945.)

Dodge v. Jefferson County Board of Education, 298 Ky. 1. The expenditure by Jefferson County Board of Education, for maintenance of a recreational plan, of tax funds collected for educational purposes, common school purposes, and the common school system, is not violative of constitutional provisions that taxes collected for such purposes should not be applied to other purposes, since the terms "education," "common school purpose," and "common school system" embrace recreational training. (June 23, 1944.)

Begley, et al. v. George E. Dum Co., 293 Ky. 351. Validity of claim against the board for school supplies was not challenged prior to time board entered into agreement with seller to settle original claim. Board should be held to agreement. (February 23, 1943.)

City of Ashland, et al. v. Board of Education of City of Ashland, 286 Ky. 69. Where board of education issued school bonds in excess of amount found necessary, application of surplus fund to payment of principal and interest is not prohibited by Constitutional provision against diversion of tax funds. (March 23, 1941.)

Sec. 183, Ky. Const. Common Schools to be Provided for.—The General Assembly shall, by appropriate legislation, provide for an efficient system of common schools throughout the state. (See Sec. 158.010 KRS.)

Sherrard v. Jefferson County Board of Education, et al., 294 Ky. 469. The portion of the school law requiring that pupils attending private schools be given the same transportation rights and paid for from public school funds as pupils of the public schools is unconstitutional. (December 18, 1942.)

Board of Education of Calloway County, et al. v. Talbott, Auditor of Public Accounts, 261 Ky. 66. Held unconstitutional to pay equalization money to teachers because constitution required money for payment of teachers to be distributed on census of pupils. (June 11, 1935.)

Sec. 184, Ky. Const. Fund Set Apart for Common Schools; Taxation for A. & M. College.—The bond of the Commonwealth issued in favor of the board of education for the sum of one million three hundred and twenty-seven thousand dollars ($1,327,000.00) shall constitute one bond of the Commonwealth in favor of the board of education, and this bond and the seventy-three thousand five hundred dollars ($73,500.00) of the stock of the Bank of Ken-

tucky, held by the board of education, and its proceeds shall be held inviolate for the purpose of sustaining the system of common schools. The interest and dividends of said funds, together with any sum which may be produced by taxation or otherwise for purposes of common school education, shall be appropriated to the common schools and to no other purpose. No sum shall be raised or collected for education other than in common schools until the question of taxation is submitted to the legal voters, and the majority of the votes cast at said election shall be in favor of such taxation; provided, the tax now imposed for educational purposes, and for the endowment and maintenance of the Agricultural and Mechanical College, shall remain until changed by law. (See Sec. 157.010 KRS.)

Dodge v. Jefferson County Board of Education, 298 Ky. 1. The expenditure by Jefferson County Board of Education, for maintenance of a recreational plan, of tax funds collected for educational purposes, common school purposes, and the common school system, is not violative of constitutional provisions that taxes collected for such purposes should not be applied to other purposes, since the terms "education," "common school purpose," and "common school system" embrace recreational training. (June 23, 1944.)

Sherrard v. Jefferson County Board of Education, et al., 294 Ky. 469. The portion of the school law requiring that pupils attending private schools be given the same transportation rights and paid for from public school funds as pupils of the public schools is unconstitutional. (December 18, 1942.)

Schuerman, et al. v. State Board of Education, et al., 284 Ky. 556. Boards of education are authorized to pay out of public school funds annual membership dues in the Kentucky Association of School Board Members. (May 10, 1940.)

Pollitt v. Lewis, et al., 269 Ky. 680. State Constitution does not permit statute authorizing boards of education to establish junior colleges and require council to levy tax to pay for its operation. (June 25, 1937.)

Larue v. Redman, 168 Ky. 487, 182 S. W. 622. Legislature may provide a tax for common school purposes without submitting the question to legal voters.

Louisville Banking Co. v. Com., 142 Ky. 690; Com. v. Thomas, 14 Ky. 789, 131 S. W. 797. Although the title to escheated property is vested in the Commonwealth, Sec. 2978a-27, of the Ky. Stats., provides that the school board may take possession for benefit of common schools.

City of Newport, ex parte, 141 Ky. 329, 132 S. W. 580. It was held that the indebtedness of the board of education in a city of the second class is not a portion of the indebtedness of the city, since the bonded indebtedness is secured by a lien upon the school property.

Brown v. Board of Education, 22 R. 483, 108 Ky. 783; Board of Education v. Lee, 153 Ky. 661, 156 S. W. 375. Trustees have no power to levy a tax for school purposes exceeding in one year the income provided for such year without the assent of two-thirds of the voters.

Sec. 185, Ky. Const. Common School Funds; Investment; Interest on.—The General Assembly shall make provision, by law, for the payment of the interest of said school fund, and may provide for the sale of the stock in the Bank of Kentucky; and in case of a sale of all or any part of said stock the proceeds of sale shall be invested by the sinking fund commissioners in other good interest-bearing stocks or bonds which shall be subject to sale and reinvestment, from time to time, in like manner, and with the same restrictions, as provided with reference to the sale of the said stock in the Bank of Kentucky. (See Sec. KRS 157.010.)

Sec. 186, Ky. Const. Distribution of school fund.—All funds

accruing to the school fund shall be used for the maintenance of the public schools of the Commonwealth, and for no other purpose, and the General Assembly shall by general law prescribe the manner of the distribution and use of the public school fund for public school purposes. Provided that each school district in the Commonwealth shall receive on a census pupil basis its proportionate part of at least ninety per cent of any fund accruing to the school fund. The remainder of any fund accruing to the school fund may be distributed upon other than a census pupil basis.

Dodge v. Jefferson County Board of Education, 298 Ky. 1. The expenditure by Jefferson County Board of Education, for maintenance of a recreational plan, of tax funds collected for educational purposes, common school purposes, and the common school system, is not violative of constitutional prvisions that taxes collected for such purposes should not be applied to other purposes, since the terms "education," "common school purposes," and "common school system" embrace recreational training. (June 23, 1944.)

A. & M. College v. Hager, 121 Ky. 87, S. W. 1125; Higgins v. Prater, 91 Ky. 6, 14 S. W. 910. Legislature may impose a tax in aid of educational institutions not a part of the common school system. A. & M. College is not a part of the common school system.

Superintendent of Public Instruction v. Auditor, 97 Ky. 180, 30 S. W. 404. The legislature has constitutional authority to charge the common school fund with the payment of "The expenses of the State Department of Education of whatsoever character or kind" in aid of common scchools.

Auditor v. Holland, 14 Bush 147. The General Assembly cannot abdicate its control over the school fund and abandon it to the county courts.

Board of Trustees v. Thomas, 12 R. 832, 15 S. W. 67; Newman v. Thompson, 9 R. 199, 4 S. W. 341. An appropriation of the fund for teaching the higher branches in common schools is valid.

Sec. 187, Ky. Const. Each Race to Share Fund Equally; Separate Schools.—In distributing the school fund no distinction shall be made on account of race or color, and separate schools for white and colored children shall be maintained.

Board of Education of Berea, et al. v. Ballard, et al., 299 Ky. 370. The constitutional provision that in distributing school fund no distinction shall be made on account of race or color and separate schools for white and colored children shall be maintained was not violated because the term of colored graded school was one month shorter during the year than that of similar school for white pupils, especially where there was no allegation that the faculty, facilities, or equipment of the schools were unequal. (February 9, 1945.)

Asher, et al. v. Huffman, 295 Ky. 312. Any person having an appreciable admixture of negro blood is not legally entitled to attend a school conducted for white people. (October 1, 1943.)

Board of Education of Calloway County, et al. v. Talbott, Auditor of Public Accounts, 261 Ky. 66. Held unconstitutional to pay equalization money to teachers because constitution required money for payment of teachers to be distributed on census of pupils. (June 11, 1935.)

City of Pineville v. Moore, 190 Ky. 357, 227 S. W. 477. This section does not forbid a tax upon the property of white citizens for the support of colored schools.

Sec. 188, Ky. Const. School Fund; Money Received from United States, Part of.—So much of any moneys as may be received by the Commonwealth from the United States, under the recent act of congress refunding the direct tax, shall become a part of the school fund, and be held as provided in Section 184; but the General Assembly may authorize the use, by the Commonwealth, of the moneys so received, or any part thereof, in which event a bond shall be executed to the board of education for the amount so used,

which bond shall be held on the same terms and conditions, and subject to the provisions of Sec. 184, concerning the bond therein referred to. (Sec. 4370-1, Ky. Stat.)

Sec. 189, Ky. Const. Appropriation for Sectarian Purposes Forbidden.—No portion of any fund or tax now existing, or that may hereafter be raised or levied for educational purposes, shall be appropriated to, or used by, or in aid of, any church, sectarian or denominational school. (See further Constitution, Sec. 5.)

Williams v. Board of Trustees, Etc., 173 Ky. 708. The Constitution not only forbids the appropriation for any purpose of the common school fund to sectarian institutions, but it contemplates that the separation between the common school and the sectarian school shall be open, notorious and complete.

Williams, et al. v. Board, et al., 173 Ky. 708, 191 S. W. 507. Under this section a public school cannot enter into any contract, agreement or arrangement whereby such school may be brought directly or indirectly under the influence, control or supervision of any sectarian institution or school.

Halbert v. Sparks, 9 Bush 259; Riggs v. Stephens, 92 Ky. 393. Appropriations of the common school fund can only be made for the benefit of common schools controlled and supervised by common school officers.

Sec. 228, Ky. Const. Oath of Office.—Members of the General Assembly and all officers, before they enter upon the execution of the duties of their respective offices, and all members of the bar, before they enter upon the practice of their profession, shall take the following oath or affirmation: I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States, and the Constitution of this Commonwealth, and be faithful and true to the Commonwealth of Kentucky so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my ability the office of ..... according to law; and I do further solemnly swear (or affirm) that since the adoption of the present Constitution, I, being a citizen of this State, have not fought a duel with deadly weapons within the State nor out of it, nor have I sent or accepted a challenge, to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, nor aided or assisted any person thus offending, so help me God.

Sec. 237, Ky. Const. Incompatible Officers; Federal.—No member of Congress, or person holding or exercising an office of trust or profit under the United States, or any of them, or under any foreign power, shall be eligible to hold or exercise any office of trust or profit under this Constitution, or the laws made in pursuance thereof.

Waddle, et al. v. Hughes, Superintendent of Ferguson Independent Graded School District No. 76, et al., 260 Ky. 269. Letter carrier ineligible to hold office of member of the board of education because of violation of Section 237 of the state constitution. This decision quotes from the case in United States v. McCrory (C.C.A.) 91 F. 295, 296 which holds: "Letter carriers are appointed by

the postmaster general under authority of the act of congress, practically during good behavior. They are sworn and give bond for the faithful performance of their duties. They are paid from moneys appropriated for the purpose by congress, and their salaries are fixed by law. They have regularly prescribed services to perform, and their duties are continuing and permanent, not occasional or temporary." (June 21, 1935.)

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62.20

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66.21

66.22

66.43

67.30
89.28

97.01

118.13
132.15
132.19

CHAPTER II

GENERAL PROVISIONS

2.040 U. S. Flag to be displayed on public buildings and schools; to be supplied schools.
2.050 Printing or lettering on U. S. Flag, or use for advertising purposes.
2.060 Marking, mutilating, defacing or defiling flag; use to advertise merchandise.
2.120 Flag Day.
2.990 Penalty.
12.030 Division of departments.
12.050 Deputy heads of departments and division heads.
12.120 Power to swear and examine witnesses.
29.030 Persons exempt from jury service.
38.470 Student's credit when called into active service.
41.180 Interest-bearing warrants; how and when issued.
41.290 Private funds and contributions.
41.295 Investment of surplus funds of agencies not supported by taxation.
42.140 Removal of state employes.
45.140 Revolving fund accounts.
56.030 State, when made grantee or lessee of land.
57.045 Printing by state educational institutions for own use.
57.140 (2) Number of copies printed and bound.
61.020 Commissions, which officers required to have.
61.290 Local officers to make annual statement of collections and disbursements; publication; penalty for failure; publication of list of delinquent taxpayers; when legal publications to be in newspaper with largest bona fide circulation.
61.330 Superintendent of Public Instruction to deliver effects to successor; penalty for failure.
62.060 Bonds of Officers, depositories and fiduciaries; form; conditions; amount; renewal.
62.070 Action and recovery on bond.
62.080 Liability for public funds placed in depository.
62.160 Bonds of state officers; minimum sum; increase or renewal.
62.170 Bonds of state employes; requirement of; amount.
62.180 Condition of bonds of state officers and employes; ex officio liability.
62.190 Blanket bonds for state departments.
62.200 Corporate surety on bonds of state officers and employes; approval as to form and legality; premiums; filing.
63.190 Vacancies filled by the Governor.
66.210 Bonds or obligations of county, city or taxing district not to be issued until approved.
66.220 Proof required to obtain approval of county, city or taxing district bonds or obligations.
66.430 Uses to which fund may be devoted; definition of "Public Works".
67.300 Disposition of school districts upon consolidation.
89.280 Board of education not affected by commission form of government; exception.
97.010 Playgrounds and recreation centers authorized in cities and counties; acquisition of land for; joint use of.
118.130 When certificates and petitions of nomination to be filed.
132.150 Valuation of spirits certified to county clerks; local tax rate.
132.190 Property subject to taxation; situs.

132.200 Property subject to state tax only.
132.215 Right to receive income; basis of assessment; rate of tax; restrospective assessment.
132.550 County clerk to compute amount due from each taxpayer; compensation of clerk.
133.070 Assessment where property is later annexed to another civil division.
133.185 Tax rate not to be fixed until assessment is certified by tax commission.
134.270 Limitation of action against sheriff and sureties.
134.420 Lien for taxes.
136.050 Time of payment of corporation property and franchise taxes; interest; penalties.
136.180 Certification of public service corporation valuations to corporation and to county clerks.
136.190 School superintendent and county clerk to report boundaries of taxing district to corporations.
136.200 Valuation of railroads and railroad bridges for local taxation.
136.270 Tax on bank and trust company shares; rates.
136.280 Reports of banks and trust companies; assessment; equalization and collection of taxes on shares and real property.
136.990 Penalties.
142.020 Individuals who are exempt from poll tax.
171.130 Library extension division; assistant librarian.
171.140 General powers and duties.
180.320 Persons crossing toll bridges and ferries must pay toll.
186.015 License plates and operators licenses for residents of Fort Knox.
186.050 Registration fees.
186.060 Motor vehicles owned by governmental units.
186.600 Age limit for drivers of school busses and public passenger-carrying vehicles; rules and regulations as to drivers of school buses.
189.050 Rear, side and clearance lights.
189.070 Trucks to carry flares or similar signals.
189.120 Passenger and school buses to have safety glass.
189.370 Passing stopped school bus.
189.540 Regulations for school buses.
189.550 School buses to stop at railroad crossings.
200.140 County children's bureaus; members; term; compensation.
207.120 Advisory Commission for Coordination of Services for the Blind.
212.260 Powers and duties of city, county, and department health officers.
227.030 Duties of director.
247.080 Fiscal courts and boards of education may aid extension work.
258.340 County may aid when fund insufficient; surplus to be paid to school fund.
262.030 Committee; membership.
273.010 Not subject to general corporation law.
273.020 Who may organize; articles of incorporation.
273.030 When organized; powers.
273.040 Directors to adopt rules; not to engage in banking or insurance.
273.050 Changing charter or articles of incorporation.
273.060 Rights of charity against person injuring property.
273.070 Incorporated college may establish adjunct schools.
273.080 Power over adjunct school.
273.130 Disposition of property in case of dissolution of religious society.
280.320 Failure to pay toll; school district to pay toll for children and busses.

280.330 Parking on toll bridge forbidden.
280.990 Penalties.
281.020 Exemption of school buses.
287.280 Maximum debt of persons to bank or trust company.
287.290 Exceptions to maximum debt to banks.
322.360 Public work under unlicensed engineer prohibited.
337.510 Schedule of prevailing wages to be included in specifications.
339.010 Limitation on employment of children.
339.040 School requirements for holders of work permits.
339.060 Form, inspection and cancellation of permits and certificates.
339.070 Duties of employers; when not liable.
339.080 Report of school superintendents; suspension and revocation of permits and certificates.
339.115 Partial suspension of KRS 339.110 as to Saturday hours, during national emergency.
339.130 Machinery for instruction in schools permitted.
363.100 Millers, regulations and tolls.
363.990 Penalties.
424.010 Bona fide circulation; definition of.
427.130 Salaries of public officials and employes subject to attachment or garnishment.
432.350 Giving and taking bribes; limitation of action; exemption.
433.180 Stealing from public building; robbing person in house; housebreaking.
433.480 Willfully damaging public building.
433.490 Fines for trespass on or injury to public property of the state or a county.
438.050 Smoking cigaretts around school.

UNITED STATES FLAG

2.040 [2089i-1; 2089i-2] **U. S. Flag to be Displayed on Public Buildings and Schools; to be Supplied Schools.**—(1) The Flag of the United States shall be displayed on the main administration building of every public institution, and, during school days, either from the flagstaff or, in inclement weather, within the school building of every schoolhouse.

(2) The Flag, with staff or flagpole, shall be provided for every schoolhouse.

2.050 [2089i-3; 2089i-4] **Printing or lettering on U. S. Flag, or Use for Advertising Purposes.**—Printing or lettering of any kind on the Flag of the United States, or the use of the Flag for advertising purposes in any manner, is prohibited.

2.060 [2089i-5] **Marking, Mutilating, Defacing or Defiling Flag; Use to Advertise Merchandise.**—No person shall in any manner, for exhibition or display, place or cause to be placed upon, or expose or cause to be exposed to public view any flag, standard, colors or ensign of the United States upon which has been placed, or to which is attached, appended, affixed or annexed, any word, figures, mark, picture, design or drawing, or advertisement of any

nature; nor shall any person manufacture, sell, expose for sale or to public view or give away or have in possession for sale or to be given away or for use for any purpose, any article of merchandise, or a receptacle for merchandise or thing for carrying or transporting merchandise upon which has been placed a representation of any such flag, standard, colors or ensign, to advertise, call attention to, decorate, mark or distinguish the article on which so placed; nor shall any person publicly mutilate, deface, defile, or defy, trample upon or cast contempt, either by word or act, upon any such flag, standard, colors or ensign.

2.120 [2089i] **Flag Day.**—The 14th day of June of each year is "Flag Day."

2.990 [2089i-5] **Penalty.**—Any person violating any of the provisions of KRS 2.060 shall be fined not more than one hundred dollars or imprisoned for not more than thirty days, or both.

DEPARTMENT DIVISIONS

12.030 [4618-154] **Division of Departments.**—The work of each department shall be distributed among the boards, commissions, divisions and institutions provided for by law. On recommendation of the head of a department concurred in by the Commissioner of Finance, the Governor in writing may authorize the head of any statutory department to establish additional divisions, divide or combine existing divisions, change the name of divisions, or transfer functions and staff from one division to another within his department. The Commissioner of Finance, with prior written approval of the Governor, may authorize any department head to create, combine or divide subordinate units within a division or institution, or otherwise, alter the internal organization of a division or institution.

12.050 [4618-154; 4618-155] **Deputy Heads of Departments and Division Heads.**—(1) Unless otherwise provided by law, deputy heads of departments and directors of divisions and institutions shall be appointed by the heads of the departments and in statutory departments the appointment of deputy heads of departments and heads of divisions shall be with the prior written approval of the Governor. Each division head shall report to the head of the department.

(2) Division heads in statutory departments shall be paid annual salaries fixed by the respective department heads with

prior written approval of the Governor. Unless a higher salary is fixed or authorized by statute, the annual salary of a division head shall not exceed forty-five hundred dollars nor exceed that of the head of his department less five hundred dollars.

12.120 [4618-162] **Power to Swear and Examine Witnesses.**—The head of each administrative department and any representative authorized by him may administer oaths and examine witnesses under oath relative to any matter properly subject to inquiry, hearing or investigation in the conduct of the work of the department.

Divisions of Department Education, KRS 156.020.

PERSONS EXEMPT FROM JURY SERVICE

29.030 [2253a-1; 2253a-2] **Persons Exempt from Jury Service.**—The following persons shall be exempt from service on any jury:

(d) Members of boards of education.

(1) Superintendents, principals, teachers and other employes of boards of education, during the term of their contract with the board of education. (1942, c. 4; 1944, c. 23)

38.470 [2711a-238] **Student's Credit When Called Into Active Service.**—When the Kentucky National Guard is called into active service by the Governor for any purpose, requiring the service of members thereof who are students in any institution of learning in the state, no teacher, professor, principal or president of the institution shall discriminate against any such student by reason of his absence, but shall credit him with all academic work accomplished to the date of his absence.

INTEREST-BEARING WARRANTS

41.180 [4618-85; 4688a-2; 4688a-3; 4688a-6] **Interest-Bearing Warrants; How and When Issued.**—(1) Whenever any warrant issued by the Department of Finance is presented to the Treasurer for payment and the cash balance for such purpose does not equal the amount on the face of the warrant, the Treasurer shall make the warrant interest-bearing as of the date it was presented for payment unless to do so would exceed any statutory or constitutional limitation as to the amount of interest-bearing state warrants which may be issued or outstanding at any one time. The Treasurer, with the written approval of the Governor and the Commissioner of Finance, shall fix the interest at the lowest rate possible, taking into consideration the current money market, but the rate of interest shall

not exceed five percent. The treasurer may contract with any purchaser or holder of such warrant to accept interest at a lower rate than that received by other holders. Interest-bearing warrants shall draw interest from the date they are stamped interest-bearing until they are called for payment.

(2) The Commissioner of Finance shall provide the forms of all warrants issued under the provisions of this section. (1942, c. 114)

SPECIAL ACCOUNTS—PRIVATE

41.290 [1992b-49] **Private Funds and Contributions.** Every department, institution or other agency of the state government having private funds or contributions available for its support or for the purpose of defraying the expenses of any work done under its direction shall deposit such funds or contributions with the Treasurer, through the Department of Finance, and shall certify to the Department of Finance the sources from which the funds or contributions were received, the terms and conditions under which, and the purpose for which, they were received, the names of the trustees or administrators of the funds or contributions, and the name of the person authorized to approve expenditures from each fund or contribution. The Treasurer shall keep each such fund or contribution entirely separate and distinct from all other funds. All disbursements from such funds and contributions shall be made by the Treasurer on the warrants of the Department of Finance, which shall issue such warrants only upon adequate vouchers approved by the person authorized to approve the expenditures. Separate sets of accounts with each of such funds and contributions, and the receipts and disbursements thereof, shall be maintained by the Department of Finance. This section does not apply to private funds of students in state educational institutions nor to the private funds of patients or prisoners in state charitable or correctional institutions, when such funds are deposited with an officer of such institutions for safekeeping, nor to the private funds or contributions made and available to the Board of Trustees of the University of Kentucky. (1946, c. 149, § 1)

41.295 Investment of Surplus Funds of Agencies Not Supported by Taxation.—(1) The Treasurer of Kentucky is hereby empowered to invest surplus funds of any board, institution or agency of the Commonwealth which is not in whole or in part supported or maintained by means of monies raised by taxation, and whose oper-

ating funds are accumulated solely by means of contributions, gifts, private funds or fees collected in the operation of its functions, in War or Victory bonds, or other bonds of the United States of America.

(2) Such surplus funds shall not be so invested unless and until the authorized head, or the governing body of such board, institution or agency shall give direction in writing to the Department of Finance that such investment shall be made, and when so given the Department of Finance shall by its warrant direct that such investment be made on behalf of the particular board, agency or institution.

(3) The Treasurer shall be custodian of such bonds as are purchased, to be held under the same duties, restrictions and liabilities as are now imposed by law as to public funds. Provided that such bonds are to be earmarked for the use and benefit of the particular board, agency or institution, and may be sold or redeemed by the Treasurer, upon the written request of the head or governing body of such board, institution, or agency entitled to the funds, the proceeds to be administered, cared for and withdrawn as provided by Section 41.290 Kentucky Revised Statutes, or as may hereafter be provided by law. (1944, c. 55)

REMOVAL EMPLOYES

42.140 [4618-90] **Removal of State Employes.**—The appointing officer of each state agency may remove any subordinate officer or employe under his jurisdiction, and upon doing so he shall forthwith notify the Division of Personnel Efficiency. If the subordinate officer or employe so removed requests it in writing, the officer who removed him shall file with the division a statement setting forth the reasons for the removal, which statement shall be open to public inspection. In all such cases the action of the officer making the removal shall be final if he acted within his authority.

See Section KRS 156.140.

REVOLVING FUNDS

FEDERAL APPROPRIATIONS

45.140 [1992b-19] **Revolving Fund Accounts.**—(1) Revolving fund accounts may be established by appropriations for financing the operations of industries, farms, hospitals, sanatoria, dining halls, dormitories, book stores, refreshment booths, athletics or other

activities self-supporting in whole or in part, or by depositing the operating receipts of such activities and agencies in the State Treasury to the credit of a revolving fund account, or by both methods. The head of the budget unit, the treasurer or other authorized fiscal agent of the unit or any division thereof responsible for the collection of receipts shall deposit with the State Treasurer all receipts from the operations of all such activities so financed and also receipts from other similar sources, including tuition and incidental fees, and the State Treasurer shall credit all such funds to a revolving fund account for the budget unit or division thereof, as directed in writing by the head of the budget unit or division thereof. The Department of Finance shall keep a separate account for each revolving fund.

(2) The amounts credited to any revolving fund so provided, together with any amount appropriated therefor, may be expended for the purposes of the fund without further specific appropriation. All money received for the fund, except direct appropriations from the state, shall at all time be reserved in the State Treasury available for disbursement for the purpose of the fund in the manner provided by law and shall not be diverted to any other purpose, except that such amounts as are over and above maintenance and operating costs of activities and agencies so financed and direct appropriations by the state to the revolving fund may, upon the order of the Department of Finance, be paid into the ordinary recurring expense fund of the budget unit or division thereof. Revolving funds shall be subject to withdrawal from the State Treasury by the head of each budget unit or division thereof when actually needed, on requisition to the Department of Finance in the same manner as other state funds are withdrawn. (1946, c. 149)

COMMONWEALTH AS GRANTEE IN DEEDS

56.030 [2337a-2; 2337a-6] **State, When Made Grantee or Lessee of Land.**—(1) Except as provided in KRS 177.060, 177.070 and 183.120, the Commonwealth shall be named as the grantee of any land given or devised to the state, or partly or wholly paid for out of state funds, and of any land or interest in land conveyed to it or for its use or for the use of any of its agencies or officers.

(2) Except as provided in KRS 183.120, the Commonwealth shall be named as the lessee in all leases for governmental purposes or for the use of the state.

School property, how title taken, KRS 160.160, 162.010, 162.020.

57.045 Printing by State Educational Institutions for Own Use. --Any state educational institution that has an established printing plant therein for the instruction of students in printing may produce printing of any class for use by the institution, but not for any outside agency. The rates charged for this printing shall not be in excess of the rates established by this chapter. (1946, c. 136, § 2)

BIENNIAL REPORT

57.140 [4384-20] **Number of Copies Printed and Bound.**—(2) The Superintendent of Public Instruction shall have printed by the contractor for state printing the following number of copies of the biennal report of the State Board of Education: One copy for each school district, one for each superintendent of schools, seven hundred and fifty copies for the General Assembly and for exchange with superintendents of other states, and five hundred copies for general distribution.

COMMISSIONS ISSUED

61.020 [3758] **Commissions, Which Officers Required to Have.** —The following officers shall have commissions issued to them by the Governor: Secretary of State, Auditor of Public Accounts, Treasurer, Commissioner of Agriculture, Labor and Statistics, Superintendent of Public Instruction, judges of the Court of Appeals, Clerk of the Court of Appeals, Railroad Commissioners, judges of the circuit courts, county judges, police judges, Commonwealth's attorneys, justices of the peace, notaries public and all the officers of the militia of rank and grade higher than and including the rank and grade of captain.

PUBLISHING ANNUAL STATEMENT

61.290 [3747a-1; 3747a-2] **Local Officers to Make Annual Statement of Collections and Disbursements; Publication; Penalty for Failure; Publication of List of Delinquent Taxpayers; When Legal Publications to Be in Newspaper with Largest Bona Fide Circulation.**—(1) Except in counties containing a city of the first class and cities required by law to publish an annual audit of their financial affairs, of the kind and character contemplated by this section, every public officer of any county, graded school district, city, or subdivision or district less than a county, whose duty it is to collect, receive, have the custody, control or disbursement of public

funds, shall at the expiration of each fiscal year prepare an itemized, sworn statement of the funds collected, received, held or disbursed by him during the fiscal year just closed. The statement shall show the amount of public funds collected and received, from what sources received, the amount disbursed, the date of each disbursement, for what purpose expended, and to whom paid; provided, however, that only the total of the amounts paid as salary during the fiscal year to each official or employee of the governmental unit shall be shown in the statement. The officer shall procure and include in or attach to the report as a part thereof a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the past year, showing the balance, if any, of public funds to the credit of the officer making the statement. The officer shall, within sixty days after the close of the fiscal year, cause the statement or the complete audit report, which shall include all the information required for the statement herein provided for, to be published in full in the newspaper published in the county that has the largest bona fide circulation in the governmental unit or district for which the statement is published, and shall file a written or printed copy of the statement or audit report and a copy of the published statement or audit report, subscribed and sworn to, in the office of the county clerk of the county in which the officer holds office.

(2) The fiscal court of each county not containing a city of the first class shall cause to be published annually in the newspaper published in the county that has the largest bona fide circulation therein a statement showing the names of all persons returned by the sheriff on his return of tax warrants, and the amount due from each for the preceding year, with such other information as the fiscal court deems proper to be published, within 30 days after the return has been filed.

(3) All newspaper publications or advertisements required by this section and all newspaper publications or advertisements required by other laws shall be published in the newspaper published in the county which has the largest bona fide circulation in the governmental unit or district for which the publication or advertisement is required. The publications or advertisements shall be made in the size of type provided by law and at the rate provided by law, and paid for out of the funds in the hands of the officer making the publication or advertisement. If no newspaper is pub-

lished in the county, the officer charged with having the publication or advertisement made shall determine how same shall be made.

(4) Any public officer who fails, refuses or neglects to comply with the provisions of this section shall be fined not less than fifty nor more than five hundred dollars. The fine shall be paid into the treasury of the county, city or other governmental unit in which the convicted officer holds office. (1944, c. 155)

ON RETIRING FROM OFFICE

61.330 [4384-33] **Superintendent of Public Instruction to Deliver Effects to Successor; Penalty for Failure.**—Upon retiring from office the Superintendent of Public Instruction shall deliver to his successor all books, papers and effects belonging to the office, and on failure to do so he shall be fined not less than one hundred nor more than five hundred dollars, which shall be recovered by indictment in the Franklin circuit court.

BONDS OF OFFICERS

62.060 [186d-1; 3751] **Bonds of Officers, Depositories and Fiduciaries; Form; Conditions; Amount; Renewal.**—(1) The bond required by law to be executed and given by any public official, depository of public funds, or any fiduciary, and other bond required by law for the discharge or performance of any public or fiducial office, trust or employment, shall be a covenant to the Commonwealth of Kentucky from the principal and surety or sureties that the principal will faithfully discharge his duties, and there shall be no other obligation in the bond. The bond shall be limited in a definite penal sum, which shall be determined and fixed by the officer or officers whose duty it is to approve the bond. The bond of each fiduciary shall be fixed in a penal sum of not less than the estimated value of the estate which the fiduciary is in charge of. The officer or officers taking any bond mentioned in this section may, at any time when it appears to be to the interest of the obligee, increase the penal sum of the bond or require a renewal thereof with other or additional sureties.

(2) A bond or obligation taken in any form other than that required by subsection (1) shall be binding on the parties thereto according to its terms.

(3) This section shall not apply to bonds given pursuant to KRS 62.160 to 62.200. (1946, c. 27)

RECOVERY ON BOND

62.070 [186d-1; 3752] **Action and Recovery on Bond.**—Actions may be brought from time to time on any bond required by law for the discharge or performance of any public of fiducial office, trust or employment, in the name of the Commonwealth, for its benefit or for that of any person injured by a breach of the covenant or condition, at the proper costs of the party suing, against the parties jointly or severally, together with the personal representatives, heirs and devisees or distributees of such of them as may be dead. Recovery against the surety shall be limited to the amount of the penalty fixed in the bond, but recovery against the principal shall not be limited by the amount of the penalty fixed in the bond. Recovery on the bond shall not be restricted to duties of responsibilities belonging to the office, trust or employment at the date the bond is executed, but may include any duties or responsibilities thereafter imposed by law or lawfully assumed.

62.080 [186d-1] **Liability for Public Funds Placed in Depository.**—All persons required by law to give bonds for the discharge or performance of any public or fiducial office, trust or employment are relieved from all liability as insurers of funds that come into their hands or subject to their control after the funds are deposited in good faith in a depository or depositories in the county approved by the fiscal court, and the obligors in the bonds shall not be responsible for loss of, or delay in payment of such funds by reason of the failure or suspension of such depository.

62.160 Bonds of State Officers; Minimum Sum; Increase or Renewal. The state officers elected by the voters of the state at large (except the Governor and Lieutenant Governor), the heads of statutory administrative departments of the state government, the Adjutant General, the Director of the Division of Banking, the Director of the Division of Insurance, the Director of the Division of Motor Transportation, the Director of the Division of Game and Fish, the Executive Director of the Unemployment Compensation Commission, the members of the Public Service Commission (other than the Chairman, who will give bond as Commissioner of Business Regulation), the members of the State Fair Board, Kentucky Aeronautics Commission, and Game and Fish Commission, and the as-

sociate members of the State Tax Commission and the Alcoholic Beverage Control Board, shall each give bond. The amounts of the bonds shall be fixed by the Governor, which amounts as to those offices hereinafter set forth in this section shall be not less than the amounts set forth for the respective offices. At any time when it appears to be to the interest of the Commonwealth the Governor may increase the penal sum of any bond or require a renewal thereof with other or additional surety. The minimum sum of the bond for the following offices shall be as follows:

Secretary of State	$ 10,000
Attorney General	10,000
State Treasurer	300,000
Commissioner of Agriculture, Labor and Statistics	10,000
Superintendent of Public Instruction	50,000
Auditor of Public Accounts	25,000
Clerk of the Court of Appeals	10,000
Adjutant General	10,000
Commissioner of Finance	100,000
Commissioner of Revenue	50,000
Commissioner of Highways	50,000
Commissioner of Welfare	25,000
Commissioner of Health	10,000
Commissioner of Business Regulation	10,000
Commissioner of Industrial Relations	5,000
Commissioner of Conservation	10,000
State Librarian	5,000
Chief of the Department of Mines and Minerals	5,000
Commissioner of Alcoholic Beverage Control	10,000
Director of Division of Banking	25,000
Director of Division of Insurance	50,000
Director of Division of Motor Transportation	10,000
Director of Division of Game and Fish	5,000
Executive Director of Unemployment Compensation Commission	20,000
Member of Public Service Commission	10,000
Member of State Fair Board	10,000
Member of Kentucky Aeronautics Commission	5,000
Member of Game and Fish Commission	1,000

Associate member of State Tax Commission	10,000
Associate member of Alcoholic Beverage Control Board	5,000

(1946, c. 27, § 1)

62.170 Bonds of State Employes; Requirement of; Amount.— The head of each constitutional administrative department of the state government (except the Governor), the head of each statutory administrative department of the state government, the Auditor of Public Accounts, the Clerk of the Court of Appeals, and the Director of the Division of Game and Fish, shall at all times require a bond from each officer, employe or deputy, in or attached to his department or his office, whose duties or functions involve the handling of money or licenses or property intended to be sold or exchanged for money in the ordinary operation of the office or department, except the members and employes of boards or commissions which by statute are stated to be a part of, included in or attached to the department. The Commissioner of Welfare shall also require a bond from the superintendent and receiver of each penal or eleemosynary institution under the management and direction of the Department of Welfare. Each board or commission that exercises any executive or administrative function of the state, or that receives any appropriation of state funds, except the Legislative Council, the Judicial Council, and boards and commissions that are stated by statute to have only advisory functions, shall require a bond of the officer, employe or appointee of such board or commission who constitutes the chief fiscal agent of such board or commission or of any institution under its management or control, and shall also require bond of each officer or employe whose duties or functions involve the handling of money or of licenses or property intended to be sold or exchanged for money in the ordinary operations of the board or commission. The amounts of the bonds required by this section shall be fixed by the Commissioner of Finance in accordance with the duties and responsibilities indicated by the personnel classification schedules of the Division of Personnel Efficiency, and in accordance with the amounts of money and property handled by the respective officers and employes. (1946, c. 27, § 2)

62.180 Condition of Bonds of State Officers and Employes; Ex Officio Liability. Each bond provided for in KRS 62.160 and 62.170 shall be a covenant to the Commonwealth of Kentucky that the principal will faithfully discharge his duties and will faithfully

account for and pay over all money and property that may come into his possession by virtue of his office or position. Liability on the bond of any officer shall extend to any position held by him ex officio. (1946, c. 27, § 3)

62.190 Blanket Bonds for State Departments.—(1) Any department head, officer, board or commission required by KRS 62.170 to take a bond from particular officers, employes, deputies, or appointees may secure a position bond, blanket bond, or bond of a similar type, providing coverage under one contract, for one premium, for all officers, employes or positions, or classes or groups of officers, employes or positions, in the department, office or agency headed by such department head, officer, board or commission, excepting only such officers, employes or positions, or classes thereof, for which such blanket coverage cannot be secured. In the event such a bond is secured, the individual bonds required by KRS 62.170 shall not be required as to any officer, employe, deputy, appointee or position within the coverage of the blanket or position bond, except that field agents and accountants of the Department of Revenue shall not be included in such a blanket or position bond, but shall be required to execute individual bonds to the Commonwealth, as provided in KRS 62.170, conditioned upon the faithful performance of all duties imposed upon them by the Commissioner of Revenue or by law.

(2) Where the Commissioner of Finance deems it to be for the best interests of the state, he may require a department head, officer, board or commission to secure a bond of the nature contemplated by subsection (1) of this section.

(3) The bonds provided for by this section shall be covenants to the Commonwealth of Kentucky that the officers, employes or holders of positions covered by the bond will faithfully account for and pay over all money and property that may come into their possession by virtue of their office, employment or position.

(4) The penal amounts of the bonds taken under this section shall be fixed by the Commissioner of Finance in accordance with the duties and responsibilities indicated by the personnel classification schedules of the Division of Personnel Efficiency, and in accordance with the amounts of money and property handled by the respective officers and employes. (1946, c. 27, § 4)

62.200 Corporate Surety on Bonds of State Officers and Em-

ployes; Approval As to Form and Legality; Premiums; Filing.—(1) Each bond mentioned in KRS 62.160 to 62.190 shall be executed by a corporate surety authorized to do a surety business in Kentucky. No bond shall be accepted until it has been approved by the Attorney-General as to form and legality, except the bond of the Attorney-General which shall be accepted when approved in such respects by the Governor.

(2) The premiums on the bonds provided for in KRS 62.160 to 62.190 shall be paid out of the same appropriations or funds from which the salaries or expenses of the officers and employes covered by the bonds are respectively paid.

(3) All bonds given pursuant to KRS 62.160 to 62.190, except the bond of the Secretary of State, shall be filed in the office of the Secretary of State. The bond of the Secretary of State shall be filed in the office of the Governor. (1946, c. 27, § 5)

VACANCIES FILLED

63.190 [3758] **Vacancies Filled by the Governor.**—In every case where there is no other provision of law for the filling of a vacancy in any office, the vacancy shall be filled by appointment by the Governor.

TAXING DISTRICT BONDS

66.210 [186c-6; 938q-4] **Bonds or Obligations of County, City or Taxing District Not to Be Issued Until Approved.**—No county, city or taxing district shall issue and offer to sell any of its bonds or obligations until the issuance thereof has been approved as provided in KRS 66.310, or by a court of competent jurisdiction, declaring the bonds or obligations are based upon and cover a valid indebtedness of the county, city or taxing district within the constitutional limitation governing the creation of the indebtedness. Any bond sold, assigned or transferred without being so approved in advance of its issuance is void, and shall not thereafter, directly or indirectly, be assumed or paid by the county, city or taxing district.

Stith v. Board of Education of Pendleton County School District, 293 Ky. 536. Only valid indebtedness may be funded. Did not establish fact that teachers' claims will not be for current school year before year closes so as to determine what indebtedness will be. (March 9, 1943.) (See also 292 Ky. 91.)

Stith v. Board of Education of Pendleton County School District, 292 Ky. 91. A county board of education, renting school building from corporation which constructed it, had no right to incur indebtedness at taxpayers' expense to reconstruct building after its destruction by fire, nor to issue funding bonds for payment of such indebtedness, though board might become owner of building under rental contract after liquidating corporation's bonded indebtedness for original construction of building by paying rentals to corporation. (November 17, 1942.) (See also 293 Ky. 536.)

Ebert v. Board of Education of School District of City of Newport, et al., 278 Ky. 75. Board cannot validly anticipate revenue in excess of amount which it has fixed in its budget. Proof established the validity of approximately $73,000 of the $90,000 asked so bond issued could be approved in amount of $73,000. (April 28, 1939.)

Ebert v. Board of Education of School District of City of Newport, et al., 277 Ky. 633. In order to establish validity of indebtedness records in office of Superintendent of Public Instruction should show the same situation as record submitted to the court. (March 24, 1939.)

Williams, et al. v. Board of Education of Paintsville, et al., 274 Ky. 624. Court refused to approve bonds, where board of education paid out of its current revenue, a debt declared to be invalid, and then issued warrants for what appeared to be current operating expenses. (June 24, 1938.)

Hancock v. Henderson County Board of Education, 272 Ky. 432. Political unit desiring to issue funding bonds should plead and prove sources of revenue available to unit so as to enable the court to determine for itself the aggregate amount of revenue that might be anticipated for each year. (April 21, 1938.)

Hancock v. Henderson County Board of Education, 271 Ky. 473. County board of education given authority to refund indebtedness. (January 14, 1938.)

Marcum v. Borders, et al., 269 Ky. 59. Valid indebtedness may be funded if bonded indebtedness does not exceed anticipated revenue for the year. Sets up conditions for funding debt by a board of education. (June 4, 1937.)

66.220 [186c-7] **Proof Required to Obtain Approval of County, City or Taxing District Bonds or Obligations.**—(1) The court shall not approve any bond or obligation of a county, city or taxing district unless and until the county, city or taxing district has alleged and proved that the indebtedness which the bond or obligation is intended to evidence was created within the constitutional limitation governing it, and has set forth in appropriate pleading every item of indebtedness created and existing or unpaid and owing by the county, city or taxing district during the period of time in which the indebtedness was created and which the proposed bond or obligation is intended to cover. If it appears in the action that the officials of the county, city or taxing district in office at the time the indebtedness was created did not have due regard for the finances of the county, city or taxing district, during the time in which the indebtedness was created, the court shall not have the power to approve the bond issue. On all disputed issues in the action the burden of proof shall be on the county, city or taxing district.

(2) If any judgment is rendered against a county, city or taxing district and an action is brought under KRS 66.210 to refund any indebtedness evidenced by the judgment, a copy of the judgment and of the pleadings and proof in the action in which it was rendered, shall be made a part of the petition in the action to have the bonds approved, and unless such judgment, pleadings and proof clearly establish that the indebtedness of the county, city or taxing district does not exceed the limit fixed by Const. 158, the court shall not have jurisdiction to approve the bond issue. No such judgment rendered against a county, city or taxing district declaring the

amount of its indebtedness shall be received as evidence in any court unless the pleadings and proof upon which it was entered clearly establish that the indebtedness of the county, city or taxing district, as shown by the judgment, does not exceed the limit fixed by Const. 158.

(3) This section and KRS 66.210 are retroactive and apply to proceedings to fund prior floating indebtedness.

Stith v. Board of Education of Pendleton County School District, 293 Ky. 536. Only valid indebtedness may be funded. Did not establish fact that teachers' claims will not be for current school year before year closes so as to determine what indebtedness will be. (March 9, 1943.) (See also 292 Ky. 91.)

66.430 Uses to Which Fund May Be Devoted; Definition of "Public Works".—(1) The uses to which such a Public Works Cumulative Reserve Fund shall be devoted are to acquire, construct, maintain, alter, repair, or improve any municipal public works.

(2) The term "Public Works" shall refer to lands, or buildings and structures, or either, or both, and shall include—municipal buildings wherein any governmental function of the municipality, or any department, or agency thereof, may be located and carried on; **schools,** cultural or recreational buildings, centers, structures or lands; bridges, viaducts, overpasses, and underpasses; streets, roads, highways, sidewalks, alleys, sewers, incinerators, garbage disposal plants and other public sanitary structures or lands; public housing projects; public redevelopment or reclamation projects; and public utilities;—the foregoing enumeration is to be construed as illustrative rather than exclusive, and other types of public buildings, structures or lands which appear useful or necessary for municipal purposes shall be included in the term "Public Works." (1944, c. 142.)

67.300 Disposition of School Districts Upon Consolidation.—(1) In case of the consolidation of counties as provided in KRS 67.190 to 67.290, the counties as consolidated shall constitute one county school district and the members of the boards of education of the county school districts thus consolidated may serve out the terms for which they were elected and qualified. The board of education of this consolidated district shall operate the schools of said district in accordance with the laws providing for the operation of county school districts.

(2) The district resulting from the consolidation of said school districts shall take over all the assets and legal liabilities of the districts joining in the consolidation; the tax levy author-

ized for the payment of interest and the retirement of bonds or the provision for sinking funds for such purposes shall continue to be levied and collected over the same area by or for the new board in accordance with the laws under which the levies were originally made until all bonded obligations of the old district or districts shall have been retired.

(3) The county superintendents in office at the time of said consolidation may serve for the remainder of their contract periods. They shall cast lots at the first meeting of the new board of education to determine which one will serve as superintendent and which one will serve as assistant superintendent for this remaining contract period. (1942, c. 48.)

BOARD OF EDUCATION NOT AFFECTED

89.280 [3235c-28; 3480b-28; 3606b-28] **Board of Education Not Affected by Commission Form of Government; Exception.**—Nothing contained in KRS 89.010 to 89.270 shall be construed to apply to the organization, existence or conducting the affairs of the board of education in cities of the second, third and fourth classes, except that in cities of the third class the board of education shall render to the board of commissioners an itemized monthly statement of all receipts and expenditures.

97.010 [3909a-1; 3909a-4] **Playgrounds and Recreation Centers Authorized in Cities and Counties; Acquisition of Land for; Joint Use of.**—(1) The maintenance and operation of playgrounds and recreation centers is a proper municipal purpose for all cities and counties. The legislative body of any city or the fiscal court of any county may dedicate for use as playgrounds and recreation centers any lands or buildings owned or leased by the city or county and not devoted to an inconsistent public use, and may acquire real property for such purposes by purchase, lease, condemnation or otherwise.

(2) Any two or more cities, or any city and county, may jointly establish, maintain and conduct a recreation system. Any school district may join with any city or county in providing and conducting public playgrounds and recreation centers.

Dodge v. Jefferson County Board of Education, 298 Ky. 1. The expenditure by Jefferson County Board of Education, for maintenance of a recreational plan, of tax funds collected for educational purposes, common school purposes, and the common school system, is not violative of constitutional provisions that taxes collected for such purposes should not be applied to other purposes, since the terms "education," "common school purpose," and "common school system" embrace recreational training. (June 23, 1944.)

118.130 [1456; 1482; 1520a-15] **When Certificates and Petitions of Nomination to Be Filed.**—(4) Petitions and certificates of nomination made under KRS 118.080 and 118.090 for the nomination of candidates for city offices or of candidates for members of boards of education shall be filed not less than forty-five nor more than sixty days before the day fixed by law for the election of the person in nomination, except that where any independent graded school district comprises parts of two or more counties the petitions or certificates shall be filed with the Secretary of State not less than fifty-five days prior to the day fixed for the election of the person in nomination. Certificates of nomination for electors of President and Vice President of the United States shall be filed with the Secretary of State not less than fifty-five days prior to the date fixed by law for the election of such electors. (1946, c. 242.)

MAXIMUM TAX ON DISTILLED SPIRITS

132.150 [4108] **Valuation of Spirits Certified to County Clerks; Local Tax Rate.**—Immediately after the valuation of the distilled spirits has been finally fixed, the department shall certify to the county clerks of the respective counties the amount liable for county, city or district taxation, and the date when the bonded period will expire on the spirits. The report shall be filed by the county clerk in his office, and certified by him to the proper collecting officer of the county, city or taxing district for collection. The spirits, in addition to the tax for state purposes, shall be taxed for county, school and city purposes at the prevailing rates of taxation on tangible personal property in the respective counties, school districts and cities in which the spirits are stored, but the combined rate of taxation for city and school purposes in cities of the first class shall not exceed one dollar and twenty-five cents on each one hundred dollars of assessed value of the spirits.

PROPERTY SUBJECT TO TAXATION

132.190 [4019a-5; 4020; 4020a-1; 4023] **Property Subject to Taxation; Situs.—**

(1) The property subject to taxation, unless exempted by the Constitution, shall be as follows:

(a) All real and personal property within this state, including intangible personal property of nonresidents

and corporations not organized under the laws of this state that has acquired a business situs within this state, except that twenty-five domestic fowls to each family shall be exempt from taxation for any purpose.

(b) All intangible personal property of individuals residing in this state and of corporations organized under the laws of this state, wherever located.

(2) The property enumerated in paragraph (b) of subsection (1) of this section shall be considered and estimated in fixing the valuation of corporate franchises.

(3) Property shall be assessed for taxation at its fair cash value, estimated at the price it would bring at a fair voluntary sale.

(4) The situs of intangible personal property for purposes of taxation shall be at the residence of the real or beneficial owner, and not at the residence of the fiduciary or agent having custody or possession. All intangible personal property shall have a situs and be subject to taxation in this state in so far as the General Assembly can subject it to taxation under the Constitutions of the United States and of Kentucky. Any intangible property owned by a resident shall be taxable in this state, unless by the date of assessment he has changed his place of abode to a place without this state with the bona fide intention of continuing actually to abide permanently without this state. The fact that a person again abides within this state within six months from so changing his actual place of abode shall be prima facie evidence that he did not intend permanently to have his actual place of abode without this state. A person so changing his actual place of abode and not intending permanently to continue it without this state and not having listed his property for taxation as a resident of this state shall, for the purpose of having his property assessed for taxation within this state, be deemed to have resided, on the day when his property should have been so assessed, at his last actual or habitual place of abode within this state. The fact that a person does not claim or exercise the right to vote at public elections within this state shall not of itself constitute him a nonresident of this state.

(5) An administrator, executor, trustee, committee, curator or agent residing in this state shall not be liable for taxes on intangible personal property held by him if the real or beneficial owner of the property resides outside of this state. This exemption

shall not apply in the case of an executor or administrator in the exercise of his office as personal representative while the estate of a deceased person is in process of settlement and before the share of the nonresident legatee or beneficiary is set apart to him, or before the legatee or beneficiary is entitled to be paid his share.

(6) Nothing contained in this section shall affect the liability for franchise taxes payable by corporations organized under the laws of this state; nor the method of taxation of banks and trust companies provided in KRS 136.270; nor the method of taxation of building and loan associations provided in KRS 136.300; and nothing contained in this section shall alter or repeal KRS 136.030.

School building bonds, KRS 162.190; 162.300.
State teachers college building bonds, KRS 162.350.
State warrants, KRS 41.200.
Teacher retirement system funds and rights, KRS 161.700.
Uniformity of taxes on property required, Const. 171.
Value of property for taxation, how estimated, tax to be based on value, Const. 172, 174.

132.200 [4019a-5; 4019a-10; 4019a-16] **Property Subject to State Tax Only.**—All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school or other taxing district in which it has a taxable situs, except the classes of property described in KRS 132.030, and 132.050, and the following classes of property, which shall be subject to taxation for state purposes only:

(1) Farm implements and farm machinery owned by a person actually engaged in farming and used in his farm operation.

(2) Livestock and domestic fowls.

(3) Capital stock of building and loan associations.

(4) Machinery and products in course of manufacture, of individuals or corporations actually engaged in manufacturing, and their raw material actually on hand at their plants for the purpose of manufacture, except as otherwise provided in KRS 91.260. Individuals or corporations actually engaged in the printing, publication and distribution of a newspaper or operating a job-printing plant shall be deemed to be actually engaged in manufacturing.

(5) Unmanufactured agricultural products, except that cities and counties may each impose an ad valorem tax of not exceeding fifteen cents on each one hundred dollars of the fair cash value of all unmanufactured agricultural products subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands

of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale.

(6) Money in hand, notes, bonds, accounts and other credits, whether secured by mortgage, pledge or otherwise, or unsecured, and shares of stock, except that nothing in this section shall forbid local taxation of franchises of corporations or of the shares of banks, trust companies or combined banks and trust companies doing business in this state, or domestic life insurance companies.

This section which excepts certain classes of property but providing that they shall be subject to taxation for state purposes only means state purposes only as contra-distinguished from all forms of local taxation, including school taxation. A corporation owning and operating a plant for the generation of electricity is actually engaged in manufacturing so that its machinery is subject to taxation for state purposes only.
Kentucky & West Virginia Power Co. v. Holiday, 216 Ky. 78, 287 S. W. 212.

LEVY AND ASSESSMENT OF PROPERTY TAXES

(Affects Teacher Retirement)

132.215 Right to Receive Income; Basis of Assessment; Rate of Tax; Retrospective Assessment.—(1) To the extent that the present right to receive income for the period of a life or lives, or other indeterminate period, may be held to be subject to assessment and taxation, the sole basis of the assessment value shall be the fair cash value estimated at the price that the particular right to receive income in question would bring at a fair voluntary sale. The value of such a right determined on the assumption that the recipient of such income will live to some future date determined by reference to a Mortality Table shall not be substituted for the fair cash value estimated at the price that the paricular right to receive income will bring at a fair voluntary sale. No tax assessor, county board of supervisors, state tax commissioner, court or other person authorized to determine values for the purpose of assessment, shall receive or consider evidence of, or determine the assessment value by the use of Mortality Tables to estimate the period during which said right to receive income will be enjoyed.

(2) To the extent that a present right to receive income from any source for a life or lives or other indeterminate period, including the right to receive installment payments, even though for a determinate period, under the terms of a life insurance policy, payable by reason of the death of the insured, may be held to be subject to assessment for ad valorem taxes, the owner or person enjoying such right on July 1 of each year shall pay a tax to the state of five cents upon each one hundred dollars of the fair cash value of his

right on the assessment date, estimated at the price such right would bring at a fair voluntary sale. No other tax shall be assessed by the state or by any county, city, school district, or other taxing district on any such right, or against the holder of any such right on account thereof.

(3) No action nor proceeding shall be commenced or maintained to assess for taxation for any period prior to July 1, 1946, for ad valorem tax purposes, the present value of the right to receive future income for a life or lives, or other indeterminate period, including the right to receive installment payments, even though for a determinate period, under the terms of a life insurance policy, payable by reason of the death of the insured, if such right has been listed for taxation as of July 1, 1946. (1946, c. 39.)

DUTY COUNTY CLERK

132.550 [4076a-1; 4076a-2] **County Clerk to Compute Amount Due From Each Taxpayer; Compensation of Clerk.**—(1) After the county clerk has completed the services required of him upon delivery of the tax rolls and schedules to him by the county tax commissioner, he shall then calculate the taxes due the state, county, school, county polls and school polls for each individual taxpayer, opposite their name in the tax rolls, upon the form prescribed by the Department of Revenue. The rolls and forms shall be a permanent record of the county clerk's office.

(2) For performing the services required by this section the county clerk shall be paid the sum of ten cents for each tax list on the tax rolls, one-half of this sum to be paid by the state, and the other one-half to be paid by the county.

ASSESSMENTS IN ANNEXED TERRITORY

133.070 [4128-1; 4128-2] **Assessment Where Property Is Later Annexed to Another Civil Division.**—(1) All assessments of property made in territory that is later annexed to another civil division shall be certified by the county tax commissioner making the assessment to the annexing civil division, and submitted by it to its supervisors to be equalized. When equalized, the regular annual tax of the annexing division shall be levied by the proper authority, placed upon its tax bills and collected as its other taxes. The taxes, if allowed to become delinquent, shall be subject to the same in-

terest and penalty charged and enforced in the manner provided by the law governing the annexing division.

(2) If the supervisors are about to adjourn or have adjourned when the assessment is certified, their session may be extended for a reasonable time or they shall be reconvened to pass upon such certified assessment. Should the assessment and equalization be completed after the regular levy of taxes for that year has been made, a levy may thereafter be made, as soon as practicable, for that year's tax.

133.185 Tax Rate Not to Be Fixed Until Assessment Is Certified by Tax Commission.—No tax rate for any county or school district levy to be based upon the assessment of property required to be equalized by the Kentucky Tax Commission shall be determined before the assessment of property for the county in which such district lies is certified by the Kentucky Tax Commission to the county court clerk as provided in KRS 133.180. (1942, c. 131.)

Ross v. First Nat. Bank, 213 Ky. 453, 281 S. W. 517. The tax rate prevailing at the time the taxes for a particular year became due and payable is the rate to be applied to the taxes for such year, regardless of when the assessment was made or completed. (March 12, 1926.)

ACTION AGAINST SHERIFF

134.270 [4134] **Limitation of Action Against Sheriff and Sureties.**—Neither the sheriff nor a surety shall be liable for any act or default of the sheriff in connection with his revenue duties unless notice of the act or default of the sheriff giving rise to a claim upon the bond has been given to the surety by the Department of Revenue, the county judge, the county attorney or other person asserting the claim within ninety days after discovery or at the latest within one year after the end of the year within which the bond was executed.

Cotton, et al. v. Walton-Verona Independent Graded School District, 295 Ky. 478. Bond of sheriff in this case effective for his whole term even though law had been changed. (October 15, 1943.)

LIEN ON PROPERTY

134.420 [4021; 4257a-7] **Lien for Taxes.**—(1) The state and each county, city or other taxing district shall have a lien on the property assessed for taxes due them respectively for five years following the date when the taxes become delinquent, and also on any real property owned by a delinquent taxpayer at the date when the sheriff offers the tax claims for sale as provided in KRS 134.430 and 134.440. This lien shall not be defeated by gift, devise, sale,

alienation or any means whatever except by sale to a bona fide purchaser, but no purchase of property made before final settlement for taxes for a particular assessment date has been made by the sheriff shall preclude the lien covering such taxes. The lien shall include all interest, penalties, fees, commissions, charges and other expenses incurred by reason of delinquency in payment of the tax bill or in the process of collecting it, and shall have priority over any other obligation or liability for which the property is liable. The lien of any city, county or other taxing district shall be of equal rank with that of the state. When any proceeding is instituted to enforce the lien provided in this subsection, it shall continue in force until the matter is judicially terminated.

(2) The state shall have a lien of equal rank with the lien provided in subsection (1) of this section on all property of a taxpayer who owes any property tax, license tax, inheritance or estate tax, excise tax, income tax, or other tax, when such taxes are not included in or covered by the lien provided in subsection (1) of this section. This lien shall accrue at the time the liability becomes fixed. The Department of Revenue may file notice of the lien with the county clerk of any county where the taxpayer has property, giving the name and address of the taxpayer and the amount of the lien. The clerk shall file the notice in the same manner as notices of lis pendens are filed, and the file shall be designated Miscellaneous State Tax Liens. The notice, when filed, shall be constructive notice to all persons of the lien on the property having a legal situs in that county, except that nothing in this subsection shall be construed to alter or change in any way the law relative to the rights and duties of a holder in due course as provided in Chapter 356, or affect the rights of any person taking the property or a lien thereon for value without actual or constructive notice. The clerk may charge a fee of $1.25 for filing the notice of lien. The fee shall become a part of the lien as an added cost of the delinquent taxpayer to be paid by him as a part of the amount necessary to release the lien, and in no event shall the state be required to pay the fee.

TIME PAYMENT TAXES

136.050 [4086; 4091; 4103] **Time of Payment of Corporation Property and Franchise Taxes; Interest; Penalties.**—(2) All state taxes assessed against any corporation under the provisions of KRS

136.120 to 136.220 shall be due and payable as provided in KRS 131.110. All county, city, school and other taxes so assessed shall be due and payable thirty days after notice of the amount of the tax is given by the collecting officer. Every corporation so assessed that fails to pay its taxes when due shall be deemed delinquent, a penalty of ten percent on the amount of the tax shall attach, and thereafter the tax shall bear interest at the rate of ten percent per annum.

CERTIFICATES OF EVALUATIONS

136.180 [4083; 4084; 4102] **Certification of Public Service Corporation Valuations to Corporation and to County Clerks.**—The Department of Revenue shall, immediately after fixing the value of the franchise and other property of a public service corporation for taxation, notify the corporation of the valuation, and the amount of assessment for state and local purposes. When the valuation has been finally determined, the department shall immediately certify to the county clerk of each county in which any portion of the corporate franchise or tangible assessment of the corporation is liable to local taxation, the amount thereof liable for county, city or district tax. The certificate shall be filed by each county clerk in his office, and by him certified to the proper collecting officer of the county, city or taxing district for collection.

Railroad to whom had been certified the amount of taxes due from it to the county, the county schools and a consolidated school district tendered to the sheriff the amounts due on the first two items and stated that it contested the validity of the last but agreed to pay it if the courts should declare it owed said items. Held it was the duty of the sheriff to take the amount tendered and if he refused to do so, the railroad company was not liable for interest or penalties thereon thereafter. Ry v. Com., 253 Ky. 24, 68 S. W. (2d) 774.

TAXING DISTRICT BOUNDARIES

136.190 [4099; 4399-16] **School Superintendent and County Clerk to Report Boundaries of Taxing District to Corporations.**—(1) The superintendent of schools in each district in which any franchise-paying corporation operates shall, on or before the first day of January in each year, furnish to such corporation the boundary of his school district in which is located any property belonging to the corporation. A copy of the report shall be filed with the county clerk of the county in which the district is situated.

(2) The county clerk of any county containing any other taxing district in which any railroad or bridge is located shall make a similar report to the railroad or bridge corporation.

136.200 [4102] **Valuation of Railroads and Railroad Bridges for Local Taxation.**—The value of the average of each mile of the lines of a railroad, as determined by the Department of Revenue, shall be used in fixing the value of the number of miles of line in each county, city or taxing district for taxation by it. Railroad bridges spanning any river that constitutes a boundary of the state shall be assessed as of the counties in which they are located, and the local tax derived therefrom shall be applied to each city, county or taxing district in which the bridges are located.

TAX ON SHARES STOCK

136.270 [4092] **Tax on Bank and Trust Company Shares; Rates.**—(4) A tax not exceeding forty cents on the one hundred dollars of the fair cash value of the shares may be imposed for school purposes in the district in which the bank or trust company is located.

136.280 [4019a-10] **Reports of Banks and Trust Companies; Assessment, Equalization and Collection of Taxes on Shares and Real Property.**—(2) The assessing officer of the county, city or taxing district in which any trust company or state or national bank is situated shall assess its shares for taxation for state, county, city and taxing district purposes. Each bank and each trust company may have deducted from the total valuation placed on its shares the assessed value of its real property in this state.

136.990 [4019a-15; 4029; 4087; 4091; 4099; 4103; 4230; 4231; 4232; 4236; 4237; 4281j-7] **Penalties.**—(2) Any corporation that fails to pay its taxes, penalty and interest as provided in subsection (2) of KRS 136.050, after becoming delinquent, shall be fined fifty dollars for each day the same remains unpaid, to be recovered by indictment or civil action, of which the Franklin circuit court shall have jurisdiction.

EXEMPTIONS POLL TAX

142.020 [4239i-2; 4239i-2a] **Individuals Who Are Exempt From Poll Tax.**—(1) All citizens of this state who are sixty-five years of age or older are exempt from all poll taxes.

(2) Any honorably discharged soldier, sailor or marine who has served ninety days or more in the military or naval forces of the United States, who was a resident of this state at the time of his induction into service, and who is totally disabled as evidenced by

pension certificate or award of compensation, is exempt from all poll taxes. (1944, c. 119)

LIBRARY EXTENSION

171.130 [4618-130] **Library Extension Division; Assistant Librarian.**—The Library Extension Division shall be headed by an assistant librarian under the direction of the State Librarian. He shall have had the same training as the State Librarian and shall have had two years of library experience.

171.140 [2438c-4] **General Powers and Duties.**—(1) The extension division shall give assistance and advice to all school, state institutional, free and public libraries, and to all communities in the state which propose to establish libraries, as to the best means of establishing and administering them, selecting and cataloging books, and other details of library management, and may send any of its members to aid in organizing such libraries or assist in the improvement of those already established.

FREE TOLLS FOR SCHOOL CHILDREN

180.320 [4356zb-2] **Persons Crossing Toll Bridges and Ferries Must Pay Toll.**—No person except officers and employes of the Department of Highways while engaged in the discharge of their duties, or children going to or returning from school, and school busses and other vehicles used exclusively in the transportation of school children to and from school, and persons exempted by KRS 38.430, shall pass over or upon any bridge or ferry owned or operated by the Department of Highways, upon which bridge or ferry tolls are at such time regularly collected, without paying the prescribed toll to the collector of tolls stationed at the bridge or ferry at the time of the passage. (1944, c. 112)

School district to pay toll for children crossing private toll bridge, KRS 280.320.

FORT KNOX

186.015 License Plates and Operators Licenses for Residents of Fort Knox.—Whereas, with the advent of war in 1941, the population of Fort Knox increased until there are at the time of this enactment, more than five hundred children within grade and high school age living on the Fort Knox Military Reservation, and whereas there is no State or Federal law providing for the education of said children, and whereas there is no adjacent school district within practical reach of said children which has adequate

housing or instructional facilities for the education of said children, and whereas construction of further facilities for such purpose, in view of construction priorities, would in current time be impossible, and with view to normal times, impracticable and uneconomical, and whereas to meet the emergency and to the relief of the said school districts adjacent to said Reservation, by agreement with the proper officials of the State of Kentucky, for the purpose of obtaining revenue to establish, maintain and conduct a grade and high school on said Reservation, the Commanding Officer of said Fort Knox Military Reservation has been authorized to issue to residents of said Military Reservation an operator's license for privately owned motor vehicles and to issue to resident owners of privately owned motor vehicles license plates for such vehicles, said license plates containing the number of the plate, the year in which issued, the word "Kentucky" and the words "Fort Knox", said agreement as herein described is hereby ratified and confirmed and the State of Kentucky hereby consents that said agreement shall continue in effect until formally abrogated, and all motor vehicle license plates and all motor vehicle operator's licenses issued by the Commanding Officer of the said Fort Knox Military Reservation pursuant to said agreement, shall be treated and considered as lawful operator's licenses and lawful motor vehicle license plates of the State of Kentucky and shall entitle the holders thereof to the same rights and privileges as those operator's licenses and motor vehicle license plates issued by the various counties of the State of Kentucky. (1944, c. 26)

Provision for maintenance of school district at Fort Knox, KRS 160.610.

SCHOOL BUSES

186.050 [2739g-2c (2); 2739g-2d] **Registration Fees.**—(5) Any person owning a truck or bus used solely in transporting school children and school employees may have the truck or bus registered as a school bus and obtain a license for $4.50 by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the bed of the truck or bus and on the rear door or part of the bed the words "School Bus" in letters at least six inches high and of a conspicuous color and that the truck or bus will be used during the next twelve months only for the purpose stated. (1942, c. 78; 1944, c. 59)

186.060 [2739g-7] **Motor Vehicles Owned by Governmental Units.**—(1) Applications for registration of motor vehicles owned exclusively by county, city or board of education in the state or by the state or Federal government shall be accompanied by a statement from the head of the department of the governmental unit that owns the motor vehicle, certifying that the motor vehicle is exclusively owned and operated by the governmental unit. The application and statement shall be forwarded by the county clerk to the department, which shall give special authority to the clerk to register it. Upon receiving that authority the clerk shall issue a registration receipt and number plate and report the registration to the head of the department authorizing the registration. For his services in issuing such certificate of registration and number plate and reporting the same the county clerk shall be entitled to a fee of fifty cents in each instance, to be paid by the department upon whose authorization such license was issued. (1946, c. 122)

(2) No person shall use on a motor vehicle not owned exclusively by a county, city, board of education in the state or the state or Federal government, any license plate that has been issued for use on a motor vehicle owned by such a governmental unit.

186.600 [2739m-38] **Age Limit For Drivers of School Buses and Public Passenger-Carrying Vehicles; Rules and Regulations as to Drivers of School Buses.**—No person under the age of eighteen shall drive a motor vehicle while it is in use as a school bus for the transportation of pupils to and from school. All drivers and all operators of school buses shall meet the requirements of law and the rules and regulations of the State Board of Education for school bus drivers and operators. Any violation of the rules and regulations of the State Board of Education for school bus drivers and operators shall be subject to the penalty prescribed for violation of this section. No person under the age of twenty-one shall drive any other motor vehicle while it is in use as a public passenger carrying vehicle.

The provisions of this bill shall apply for the duration of the war and six months thereafter. (1944, c. 60)

189.050 [2739g-24; 2739g-50; 2739g-89; 2739g-90] **Rear, Side and Clearance Lights.**—(1) All vehicles shall display at the rear one red light visible when lighted for at least five hundred feet. A red reflector meeting the requirements may be used in lieu of a red light.

(2) Every motor bus used for the transportation of persons for hire shall be equipped with at least one red light in the rear with the word "stop" on it which can be seen for one hundred and fifty feet when illuminated.

189.070 [2739g-69d] **Trucks to Carry Flares or Similar Signals.**—(1) No person shall operate any motor truck upon a highway outside of a business or residence district at any time from a half-hour after sunset to a half-hour before sunrise unless that vehicle carries not less than three flares, electric lanterns or other signals capable of continuously producing three warning lights, each visible from a distance of at least five hundred feet for a period of at least eight hours. A motor vehicle transporting flammables, however, may carry red reflectors in place of the other signals mentioned in this section. Every flare, lantern, signal or reflector shall be of a type approved by the department. The department shall publish lists of those devices which it has approved as adequate for the purposes of this section.

189.120 [2739g-28a; 2739g-28b] **Passenger and School Buses to Have Safety Glass.**—(1) Glass used in the windshield or in the window next to the operator or in the doors or rear windows of a bus used for the transportation of persons for hire, or as a school bus shall be safety glass, whenever the vehicles are being operated on the highways.

(2) This section shall not become operative until the vehicles are replaced; after that, if it becomes necessary to replace glass in any of the openings described in subsection (1), safety glass shall be used in making the replacements. No person, firm or corporation shall sell any motor vehicle of the type referred to in subsection (1) unless the openings in the motor vehicles are equipped with safety glass. No new vehicle shall be registered unless it is equipped with safety glass.

(3) "Safety glass" as used in this section, means glass so treated or combined with other material as to reduce, in comparison with ordinary sheet or plate glass, the likelihood of injury to persons by objects from exterior sources or by glass when the glass is cracked or broken.

189.370 [2739g-46a; 2739g-69L] **Passing Stopped School Bus.**—(1) Whenever any school bus is stopped upon a highway for the purpose of receiving or discharging passengers, every operator of

a vehicle approaching from any direction shall bring his vehicle to a complete stop and shall not start up or attempt to pass until the school bus has finished receiving or discharging passengers. The driver of the bus, after having stopped for the purpose of receiving or discharging passengers, shall permit all vehicles that have stopped as required by this subsection to proceed before again putting the school bus in motion.

(2) The operator of a vehicle upon a highway outside a business or residence district upon meeting or overtaking any school bus which has stopped on the highway shall come to a complete stop and then may proceed with due caution for the safety of any children and may in no event drive in excess of ten miles per hour in passing the school bus.

(3) Subsection (2) shall be applicable only if the school bus bears upon the front and rear a plainly visible sign containing the words "school bus" in letters not less than four inches in height, which can be removed or covered when the vehicle is not in use as a school bus.

Commonwealth v. Mullins, 296 Ky. 190. In passing school bus subsection (1) applies to city or congested traffic and every operator of a vehicle approaching from any direction shall bring his vehicle to a complete stop and not start up or attempt to pass until the school bus has finished receiving or discharging passengers.

Subsection (2) applies to open territory and where there is no congested traffic. Operators in passing a school bus in this territory shall come to a complete stop and then proceed with due caution for the safety of any children and may not in any event drive in excess of ten miles in passing a school bus. (December 14, 1943.)

189.540 [2739g-69m] **Regulations for School Buses.**—(1) The State Board of Education by and with the advice of the State Highway Patrol shall adopt and enforce regulations to govern the design and operation of all school buses used for the transportation of school children when buses are owned and operated by any school district or privately owned and operated under contract with any school district. Such regulations shall by reference be made a part of such a contract with a school district. Every school district, its officers and employes and every person employed under contract by a school district shall be subject to those regulations.

(2) Any officer or employe of any school district who violates any of the regulations or fails to include obligations to comply with the regulations in any contract executed by them on behalf of a school district shall be guilty of misconduct and subject to removal from office or employment. Any person operating a school bus under contract with a school district who fails to comply with any

of the regulations shall be guilty of breach of contract and his contract shall be cancelled after notice and hearing by the responsible officers of such school district.

189.550 [1376r-10] **School Buses to Stop at Railroad Crossings.**—Operators of motor vehicles transporting school children shall stop their motor vehicles before crossing over any steam or electric interurban railroad main tracks at a grade. The stop shall be made at not less than ten feet nor more than thirty feet from the nearest railroad over which the highway crosses, except where the crossing is protected by gates or a flagman employed by the railroad. After making the stop, the operator shall carefully look in each direction for approaching cars or trains and shall not start his vehicle until it is ascertained that no cars or trains are approaching in either direction.

Exemption school buses, KRS 281.020.

DUTIES OF SUPERINTENDENT
CHILD LABOR

200.140 [331L-16; 331L-17] **County Children's Bureaus; Members; Term; Compensation.**—(1) The fiscal court of any county, with the advice and assistance of the Department of Welfare, may establish county children's bureaus. When the fiscal court has authorized the establishment of such a bureau, the county judge and the county superintendent of schools shall submit to the department a list of nine persons, or if the county contains a city of the first or second class, fifteen persons, including both men and women. From this list, the department shall recommend three persons, or if the county contains a city of the first or second class, five persons, who shall then be appointed by the county judge and the county superintendent of schools.

207.120 Advisory Commission for Coordination of Services for the Blind.—(1) There is hereby created a Kentucky Advisory Commission for the Blind, to be composed of the Superintendent of Public Instruction, the Director of Vocational Rehabilitation in the Department of Education, the Superintendent of the Kentucky School for the Blind, the Commissioner of Welfare, Director of Public Assistance, Director of Child Welfare and the Commissioner of Health. Each member may in writing designate one of his assistants to act in his place as a member of the Commission. The Commission shall select one of its members as chairman and one as secretary. The Commission shall hold quarterly meetings at such

time and place as may be agreed upon, and may meet at other times at the call of the chairman. The members of the Commission shall serve without compensation, and shall have no authority to incur expenses.

(2) The functions of the Kentucky Advisory Commission for the Blind shall be to ascertain ways and means for coordinating all state services for the blind; to make recommendations to the various agencies of the state government serving the blind with respect to the transfer and referral of cases between such agencies, and with respect to the types of services needed; and to establish a close liason among the various agencies of the state government rendering services to the blind. The Commission shall serve all state agencies for the blind in an advisory capacity.

(3) The various agencies of the state government serving the blind shall from time to time submit to the Kentucky Advisory Commission for the Blind such reports as may be required by the Commission concerning the work of such agencies, with appropriate observations and recommendations thereon and pertinent statistics. (1946, c. 34)

212.260 [2054a-13] **Powers and Duties of City, County, and Department Health Officers.**—(3) The health officer of a county that has formed a county department of health shall: (g) Visit the schools of the county and make such inspections of surroundings, premises or inmates as the county board of health or State Board of Health may determine are necessary to protect the public from communicable diseases. If in school examinations of children for defective eyesight and hearing, diseased tonsils and teeth, and adenoids, such conditions are found either by himself or his assistant, a confidential report in writing shall be made to the parent or guardian of the child, calling attention to the defect or disease and requesting that such condition be corrected.

TEACH FIRE PREVENTION

227.030 [762b-7] **Duties of Director.**—The director in conjunction with or through public officers upon whom such duties are imposed, if any, shall:

(6) Have fire prevention taught in all public and private schools at least once each week, have fire drills held in said schools at least once each month and require that all doors and exits in

school and public places open outward and be kept unlocked while the places are occupied for school or public purposes.

AGRICULTURAL EXTENSION WORK

247.080 [4636g-2] **Fiscal Courts and Boards of Education May Aid Extension Work.**—Fiscal courts and county boards of education may appropriate such sums of money out of their annual funds as in their wisdom are necessary to aid in carrying on extension work in agriculture and home economics in their respective counties, in connection with the University of Kentucky.

DOGS

258.340 [68b-27; 68b-29; 68b-37] **County May Aid When Fund Insufficient; Surplus to Be Paid to School Fund.**—(1) If there is not sufficient money in the county livestock fund to pay off valid claims against the county livestock fund, the fiscal court may appropriate out of the general fund of the county sums not exceeding the amount paid into the livestock fund during the previous year, for the payment of all valid unpaid claims.

(2) After payment for all loss, damages, compensation and other necessary expenses, any surplus remaining in the county livestock fund at the end of a year shall be paid into the county school fund.

SOIL CONSERVATION COMMITTEE

262.030 [42i-4] **Committee; Membership.**—The State Soil Conservation Committee shall consist of the following: the Commissioner of Agriculture, Labor and Statistics, the Commissioner of Conservation, the Director of the Agricultural Experiment Station, the Director of Vocational Education, or the designated representatives of those officials, and a representative farmer appointed by the Governor for a term of four years. The committee may invite the United States Secretary of Agriculture to appoint one person to serve with the members as an advisory member of the committee.

RELIGIOUS, CHARITABLE AND EDUCATIONAL SOCIETIES

273.010 [883] **Not Subject to General Corporation Law.**—Unless expressly included, corporations organized under KRS 273.020 shall not be subject to any statutes relating to corporation having a capital stock or organized for pecuniary profit, except KRS 271.385,

requiring an agent for process, but shall at all times be subject to visitation by the legislature. (1946 c. 141)

273.020 [879] **Who May Organize; Articles of Incorporation.**—Any number of persons may organize a corporation having no capital stock for religious, educational or any charitable purpose, from which no private pecuniary profit is derived. These persons shall sign articles of incorporation, which shall be filed in the office of the Secretary of State, and recorded in the county clerk's office of the county where the principal place of business of the corporation is located. The articles shall set forth the name of the corporation, which shall not be the name of any existing corporation, the object for which it is formed, and any other facts the signers consider it proper to mention.

273.030 [880] **When Organized; Powers.**—When the articles are filed and recorded and a certificate of that fact is issued by the Secretary of State, the corporation shall be considered organized and may sue and be sued, contract, have and use a common seal, and alter it at pleasure, and to receive and hold property necessary to promote the objects of the corporation. It may sell or dispose of its property at pleasure, unless the property has been received as a gift or devise for some special purpose in which case the property shall be used only for the purpose specified.

273.040 [881] **Directors to Adopt Rules; Not to Engage in Banking or Insurance.**—The directors, trustees or managers of any corporation organized under KRS 273.020 may adopt rules for its government and operation but no such corporation shall engage in any plan of banking or insurance.

273.050 [882] **Changing Charter or Articles of Incorporation.**—Two-thirds of the directors, managers or trustees of any corporation organized under KRS 273.020 may change its charter or articles of incorporation by filing and recording the amendment as original articles are required to be filed and recorded.

INJURY TO PUBLIC PROPERTY

273.060 [3952] **Rights Against Person Injuring Property.**—The governing body of any educational institution, place of worship or public charity shall have the same rights, civil and penal, against any person injuring or intruding upon any property belonging to it as are granted in KRS 433.490 concerning the public property of a county. The net proceeds shall be paid to the govern-

ing body entitled thereto. Death, resignation or removal of any member of the governing body shall not impede any civil action for these injuries.

ADJUNCT COLLEGES

273.070 [4756] **Incorporated College May Establish Adjunct Schools.**—Any incorporated college or university in this state may establish adjunct schools and colleges in any part of the state to be operated in connection with it. In order to establish and operate any adjunct school or college the institution establishing it may solicit and receive subscriptions and donations.

273.080 [4757] **Power Over Adjunct School.**—All property procured for any adjunct school or college shall be held and applied by the governing body of the institution establishing it for the purpose of establishing and maintaining the adjunct school. The governing body may procure grounds and erect buildings for its use and occupation, appoint and remove its teachers, prescribe a course of study for its students, confer degrees of graduation from it and exercise the same general supervision and control over it that they may exercise over their own institution.

273.130 [323] **Disposition of Property in Case of Dissolution of Religious Society.**—If any religious society holding land dissolves, the title shall vest in the trustees of the county seminary in which the land lies for the use of that seminary; and if there is no such seminary, then in the county court, for the benefit of common schools in the county.

TOLLS, BRIDGES

280.320 [1342a-1] **Failure to Pay Toll; School District to Pay Toll for Children and Buses.**—(1) No person, unless he is entitled by law to free passage, shall pass or take any vehicles over or upon any part of any privately-owned toll bridge or toll ferry without paying in legal tender to the collector of tolls then stationed at the bridge or ferry the amount of toll prescribed by law or regulation for passage over the bridge or ferry.

(2) The school board of the district which is furnished school service for the children shall pay the proper toll charges over privately-owned toll bridges or toll ferries for children going to or returning from school, and for school busses and other vehicles used exclusively in the transportation of school children to and from school. (1944, c. 112)

280.330 [1342a-2] **Parking on Toll Bridge Forbidden.**—No person shall park any vehicle upon any public or privately-owned toll bridge at any time.

280.990 [1342a-3] **Penalties.**—(10) Any person who violates any of the provisions of KRS 280.320 or 280.330 shall be fined not less than five dollars nor more than fifty dollars for each offense.

EXEMPTION SCHOOL BUSES MOTOR TRANSPORTATION LAWS

281.020 [2739j-94] **Exemption of School Buses.**—The provisions of this chapter do not apply to:

(2) Motor vehicles used as a school bus and while engaged in the transportation of students, under the supervision and control, and at the direction, of school authorities.

(7) Motor vehicles used for the exclusive transportation of members of the armed forces on educational or recreational trips under the supervision and control of and under the exclusive direction of military authorities. Such vehicles, however, shall be insured as other vehicles under this chapter. This exclusion shall be limited to the duration of the present National Emergency. (1942, c. 185; 1944, c. 135)

INDEBTEDNESS: EXCEPTIONS TO SECTION 583, KENTUCKY STATUTES, WHICH IS SECTIONS 287.280 AND 287.290, KRS

287.280 [581; 583; 609; 610] **Maximum Debt of Persons to Bank or Trust Company.**—(1) No bank or trust company shall permit any person to become indebted to it or to become obligated as guarantor or surety to it in an amount exceeding twenty per cent of its capital stock actually paid in and its actual amount of surplus, unless such person pledges with it good collateral security or executes to it a mortgage upon real or personal estate which at the time is of more than the cash value of the indebtedness or obligation above all other encumbrances.

(2) No bank or trust company shall permit any of its directors or officers to become indebted or obligated as guarantor or surety to it in an amount exceeding ten per cent of its capital stock actually paid in, without securing the excess by the mortgage or pledge of real or personal property double in value the amount of the excess.

(3) In no event shall the indebtedness or obligation of any person exceed thirty per cent of the paid-in capital and actual surplus of a bank or trust company.

(4) In computing the indebtedness of a partnership, the liability of the individual members shall be included, and any obligation entered into for the benefit of a person, partnership or association shall be included in the total liabilities of the person, partnership or association.

(5) Except as otherwise provided in this section, the same security, both in kind and amount, shall be required from stockholders as from nonstockholders.

(6) The discount of bills of exchange drawn against actually existing value, and the purchase or discounting of commercial or business paper actually owned by the person negotiating such paper shall not be considered as borrowed money within the meaning of this section in fixing the limit of indebtedness or obligation of any person selling or negotiating such paper to a bank.

287.290 [583] **Exceptions to Maximum Debt to Banks.** In the case of obligations to banks and trust companies, the limitations and restrictions of KRS 287.280, shall not apply to:

(1) Obligations of the United States or of the State of Kentucky;

(2) Obligations guaranteed as to principal and interest by the United States or the State of Kentucky; or all obligations to the extent secured or covered by guaranties or by commitments or agreements to take over or to purchase the same made by any Federal Reserve Bank or by the United States or by any department, bureau, board, commission or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States; or obligations issued under authority of the Federal Farm Loan Act and its amendments or issued by the Federal home loan banks or the Home Owners Loan Corporation; or obligations which are insured by the Federal Housing Administrator pursuant to Title 12, Section 1713, United States Code, if the debenture to be issued in payment of such insured obligations are guaranteed as to principal and interest by the United States; or obligations of national mortgage associations;

(3) Obligations of Kentucky counties and school districts incurred through borrowing in anticipation of the current year's tax receipts as authorized by KRS 68.320 and 160.540. (1944, c. 15; 1946, c. 177)

LICENSED ENGINEER

322.360 [1599e-18] **Public Work Under Unlicensed Engineer Prohibited.**—(1) Neither the state nor any of its political subdivisions shall engage in the construction of any public work involving engineering, unless the plans, specifications and estimates have been prepared and the construction executed under the direct supervision of a licensed engineer or a licensed architect.

(2) Subsection (1) of this section shall not apply to any public work in which contemplated expenditure for the completed project does not exceed two thousand dollars or to the maintenance or repair of any existing state or county highway.

337.510 [2290c-2] **Schedule of Prevailing Wages to be Included in Specifications.**—Before advertising for bids or entering into any contract for construction of public works, every public authority shall ascertain the prevailing rates of wages of laborers, workmen, mechanics, helpers, assistants and apprentices for the class of work called for in the construction of such public works in the locality where the work is to be performed. This schedule of wages shall be attached to and made a part of the specifications for the work and shall be printed on the bidding blanks and made a part of every contract for the construction of public works.

WORK PERMITS

339.010 [4434-4; 4434-19] **Limitation on Employment of Children.**—(1) No person shall employ or permit any child under sixteen years of age to work in any gainful occupation until such person has secured and placed on file in his office a work permit for the child as provided in KRS 339.020 and 339.030.

(2) No child under the age of fourteen years shall be employed or permitted to work in any occupation or service whatsoever during any of the hours when the public schools of the school district in which the child resides are in session.

339.040 [4434-4] **School Requirements for Holders of Work Permits.**—(1) School districts may organize part-time school and any child to whom a work permit is issued may be required to attend such school.

(2) A child permitted to withdraw from school by the issuance of a work permit shall return to school within five days after the termination of the employment for which the work permit

was issued or, if school is not then in session, upon the beginning of the next school term.

Liability of parent for permitting child to violate this section, KRS 159.180.

339.060 [4434-4] **Form, Inspection and Cancellation of Permits and Certificates.**—(1) All work permits and certificates of age and health provided for in this section shall be issued on forms provided by the State Board of Education.

(2) Work permits and age certificates shall be open to inspection by attendance or probation officers, by the Department of Industrial Relations and by the officers of the State Department of Education.

(3) Any work permit or age certificate shall be subject to cancellation at any time by the Superintendent of Public Instruction, the Commissioner of Industrial Relations or the officer issuing it whenever any such officer finds that the conditions for its legal issuance do not exist.

339.070 [331a-4; 4434-4] **Duties of Employers; When Not Liable.**—(1) Every person employing children under sixteen years of age shall keep a separate register containing the names, ages, and addresses of such employes, and shall keep posted in a conspicuous place in every room where such children are employed a notice stating the working hours per day for each day in the week required of them, and shall keep on file during the term for which issued all work permits required by this section for children under sixteen years of age. These records and files shall be open at all times to the inspection of school attendance and probation officers, and representatives of the Department of Industrial Relations, and the officers of the State Department of Education.

(2) Within five days after the termination of work permits, notification shall be sent by the employer to the board of education of the district which authorized the permit. This notification shall contain the latest correct address of the child known to the employer.

(3) No employer shall be prosecuted for employing a child at an age prohibited by this chapter, if the employer at the time of employing the child, in good faith, procured a work permit or certificate of age, showing the child to be of an age not prohibited for the employment, and has kept the permit or certificate on file and in good faith relied upon it.

339.080 [331a-4] **Report of School Superintendents; Suspension and Revocation of Permits and Certificates.**—(1) The superintendent of schools in each school district shall, between the first and tenth days of each month, send to the Department of Industrial Relations a report stating the name of each child to whom a work permit has been issued in the preceding month, with the name and address of the establishment where he was to be employed; and the name of each child to whom a certificate has been denied in the preceding month, with the ground of the denial.

339.115 Partial Suspension of KRS 339.110 as to Saturday Hours, During National Emergency.—During the duration of the National Emergency which was declared to exist by proclamation of the President of the United States, dated May 27, 1941, and for six months thereafter, KRS 339.110 shall be suspended in so far as it prohibits the working of a person under sixteen years of age more than eight hours on Saturday, or after six o'clock in the evening on Saturday; providing that such person shall not be employed or permitted to work more than ten hours on any one Saturday nor later than nine o'clock in the evening on Saturday. The provisions of this section shall apply only to retail establishments which employ ten persons or less at any one place of business. (1944, c. 123)

339.130 [331a-9] **Machinery for Instruction in Schools Permitted.**—Nothing in this chapter shall prevent the use of suitable machinery for instruction in schools where the mechanical arts are taught in connection with and as part of the usual school curriculum. The use of such machinery in any public or private school shall be subject to the approval of the board of education of the district where the school is situated, and shall be subject to the provisions of this chapter as to supplying safeguards for the protection of those using such machinery.

MILLERS TOLLS

363.100 [2721] **Millers, Regulations and Tolls.**—(1) Every owner or operator of a mill grinding meal, flour, bread stuff, feed or similar products shall keep therein and use sealed half-bushel and peck measures and a sealed toll dish, and shall measure all grain by strike measure or weight.

(2) Every miller shall, in due time and in the order received, well and sufficiently grind or manufacture the grain brought to his mill, giving preference only to what is necessary for the use of his

own family. No miller shall take or demand for toll more than one-eighth of all grain ground, manufactured or exchanged in his mill, if it is a water mill, or more than one-seventh of such grain if it is a power mill not operated by water.

363.990 [2721; 4819a-1; 4819a-6; 4823; 4823a-1; 4823b-3] **Penalties.**—(5) Any person who violates any of the provisions of subsection (1) of KRS 363.100 shall for each offense be fined five dollars, for the use of the school district in which the mill is located.

BONA FIDE NEWSPAPER CIRCULATION

424.010 [14a-1a; 3742a-1a] **Bona Fide Circulation; Definition Of.**—"Bona fide circulation" means a circulation consisting of paid subscribers and, when applied to a newspaper, does not include any newspaper, whose circulation or any part thereof consists of the distribution of free copies other than copies to active correspondents, checking copies to advertisers and advertising agencies, and copies exchanged with other publications. The term does not include any newspaper whose circulation or any part thereof is paid for by some advertiser, merchant or promoter.

ATTACHMENT OF TEACHERS' SALARIES

427.130 [1701b] **Salaries of Public Officials and Employes Subject to Attachment or Garnishment.**—(1) Salaries or other sums due state, county, city and school board officers and employes shall be subject to attachment or garnishment. (1942, c. 102)

BRIBERY, BOARDS OF EDUCATION

432.350 [1366] **Giving and Taking Bribes; Limitation of Action; Exemption.**—(1) Any person who promises, offers, gives or causes or procures to be promised, offered or given any money or other thing of value, or makes or tenders any contract, obligation, gratuity or security for the payment of money or for the delivery or conveyance of anything of value, to any member of the General Assembly, or to any judicial, executive or ministerial officer of this state, or to any county or city executive, ministerial, judicial or legislative officer, including members of boards of education and subdistrict trustees, after he has been elected, and before or after he has been qualified and assumed office or taken his seat, with intent to influence his vote or decision on any question, matter, cause

or proceeding pending in the General Assembly or before such officer, or pending before any committee of the General Assembly, shall be fined not less than fifty dollars or more than one thousand dollars, or confined in the penitentiary for not less than one nor more than five years, or both.

(2) Any member of the General Assembly or any other executive, judicial, ministerial or legislative officer of this state or of any county or city, including members of boards of education and subdistrict trustees, who takes or agrees to take any bribe to do or omit to do any act in his official capacity shall be fined not less than fifty dollars nor more than one thousand dollars, or confined in the penitentiary for not less than one nor more than five years, and shall forfeit his office and be disqualified from the right of suffrage for ten years.

(3) Any prosecution under this section shall be commenced within five years from the date of the Commission of the offense.

(4) Any person who gives to any subdistrict trustee any remuneration in return for recommendation or appointment to any position in the school system shall be exempt from prosecution under this section if he appears as a witness against the subdistrict trustee.

Bribery in school system, KRS 156.370, 160.600.

Commonwealth v. Huddleston, 283 Ky. 465. The trial court was without power to dismiss a bribery indictment on motion of the county attorney over protest of the Commonwealth's attorney. (June 14, 1940.)

PUBLIC PROPERTY

433.180 [1162] **Stealing from Public Building; Robbing Person in House; Housebreaking.**—If any person shall feloniously take out of or from any church, chapel, or meeting-house, schoolhouse, courthouse, or other public building, any goods or chattels, or other thing of value belonging thereto; or shall rob any person in his dwelling-house or place, or in any booth or tent in a fair or market, he, his wife, children or servants or other persons then being within; or shall feloniously break any dwelling-house or any part thereof, or any out-house belonging to or used with any dwelling-house, with intent to steal, or shall feloniously take therefrom or destroy any goods, wares or other thing of value although the owner or any person may not be there, he shall be confined in the penitentiary for not less than two nor more than ten years. (1942, c. 140)

433.480 [1258] **Willfully Damaging Public Building.**—Any person who willfully and unlawfully damages any church, court-

house, schoolhouse or other public building shall be fined not less than five dollars nor more than five thousand dollars.

433.490 [3951] **Fines for Trespass on or Injury to Public Property of the State or a County.**—Any person, for trespass on or injury to any public property of the state or of a county, shall be fined, in the discretion of the jury, in addition to his civil liability. The net proceeds of a fine for a trespass on public property of a county shall be paid to the county treasury.

CIGARETTES

438.050 [1277a-4] **Smoking Cigarettes Around School.**—Any person who smokes a cigarette in any school building or any part of any building used for school purposes, or upon school grounds, while children are assembled there for lawful purposes, shall be fined not less than one dollar nor more than five dollars.

CHAPTER III

DEPARTMENT OF EDUCATION

156.010 Department of Education; composition; functions
156.020 Divisions of department
156.030 Composition of State Board of Education
156.040 Qualifications of board members
156.050 Rules; secretary
156.060 Quorum; meetings; location of office; per diem; traveling expenses
156.070 General powers and duties of board; publication of rules, courses of study, bulletins and other material
156.080 School census; forms and rules for
156.090 Certificates of school employes; board to publish regulations concerning
156.100 Board may accept federal aid or gift, donation or devise
156.110 Removal of school board members and public school officials
156.120 Superintendent of Public Instruction; location of office; salary; bonds; traveling expenses
156.130 Superintendent is executive officer of State Board of Education; general duties
156.140 Superintendent to control and appoint division heads and employes
156.160 Superintendent to prepare school budget and rules and regulations governing schools, for adoption by board
156.170 Superintendent may take special school census
156.180 Superintendent may attend educational conferences
156.190 Superintendent may call school conferences
156.200 Superintendent to examine and supervise reports and accounts of boards of education and educational institutions
156.210 Superintendent to have access to records; may examine and compel attendance of witnesses; shall report law violations
156.220 Superintendent to decide controversies
156.230 Superintendent to prepare publications
156.240 Superintendent to prepare for publication and explain school laws and regulations
156.250 Biennial school report
156.260 State Textbook Commission; organization
156.270 Conditions to be complied with before textbooks adopted or purchased
156.280 Conditions of bond of person offering textbooks
156.290 Form of statement and bond; duration; supplemental statement and bond
156.300 Violation of bond; suit on
156.310 List of basal texts for independent school units embracing city of first four classes or having school census in excess of 1250
156.320 List of basal texts for county school districts and independent school districts not embracing city of first four classes or having school census in excess of 1250.
156.330 Only approved books to be used as basal texts
156.340 Distribution of books; agents
156.350 Pupil removing from district; purchase of books from
156.360 School official or employe not to act as book agent
156.370 Reward for adoption of books forbidden
156.380 Disposition of sample books
156.990 Penalties

156.010 [4618-20; 4618-80] **Department of Education; Composition; Functions.**—(1) The Department of Education shall consist

of the State Board of Education and the Superintendent of Public Instruction, who shall be the head of the department.

(2) The Department of Education shall exercise all administrative functions of the state in relation to the management and control of the public common schools, of vocational education and rehabilitation, of the state institutions of higher education for Negroes, and of the Kentucky School for the Blind.

(3) The University of Kentucky, the Eastern Kentucky State Teachers College, the Western Kentucky State Teachers College, the Morehead State Teachers College, and the Murray State Teachers College, with their governing boards, the Board of Commissioners of the Kentucky School for the Deaf, and the State Textbook Commission, are included in the Department of Education and constitute divisions thereof, but each shall continue to exercise all the functions conferred upon it by law.

156.020 [4384-6] **Divisions of Department.**—The Superintendent of Public Instruction shall recommend for approval by the State Board of Education the establishment of such divisions of the State Department of Education as he deems necessary for the successful administration and supervision of the common schools and other educational agencies placed under the management and control of the board. In addition to an Assistant Superintendent of Public Instruction who is authorized to act in the absence of the Superintendent of Public Instruction, the following divisions shall be included in the organization of the State Department of Education: Finance and inspecting; attendance; supervision; teacher training and certification; public relations; research and statistics; vocational education; vocational rehabilitation and special education; school buildings and grounds; and Negro education. The Superintendent of Public Instruction may group the established divisions under such bureaus as he deems wise.

Divisions of statutory departments may be created, KRS 12.030, 12.050.

156.030 [4377-2; 4377-4; 4384-5; 4527-63] **Composition of State Board of Education.**—There shall be a State Board of Education composed of the Superintendent of Public Instruction and seven lay members. The Superintendent of Public Instruction shall be chairman of the board. Beginning with 1940 the Governor shall appoint two lay members every year for a term of four years to take the place of the members appointed under the provisions of Chapter

65 of the Acts of 1934 whose terms expire that year, except that every fourth year the Governor shall appoint one lay member for a term of four years to take the place of the lay member whose term expires that year. The terms of the lay members of the board shall begin on July 1 in the year in which they are appointed. In the case of a vacancy the Governor shall fill the vacancy for the unexpired term. The board shall be a corporation by the name of the Kentucky State Board of Education, with the usual corporate powers.

156.040 [4377-5] **Qualifications of Board Members.**—The members of the State Board of Education shall have the same qualifications as school board members, except that members of the State Board of Education shall be at least thirty years of age. Appointments shall be made without reference to place of residence in the state, occupation, political affiliation, or similar considerations. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator.

Qualifications of school board members, KRS 160.180.

156.050 [4377-7] **Rules; Secretary.**—The Superintendent of Public Instruction shall within ten days after the appointment of members of the State Board of Education call a meeting of the board. At this meeting the board shall organize and adopt rules and regulations governing its action and policy. The board shall elect a secretary who shall be an employe in the Department of Education. The secretary shall have charge of the board's correspondence and keep a record of its proceedings.

156.060 [4377-8] **Quorum; Meetings; Location of Office; Per Diem; Traveling Expenses.**—A majority of the board shall constitute a quorum for the transaction of business. The board shall meet every three months and at such other times as it may be called as provided in this section. Special meetings of the board may be called by the chairman, and upon written request of three members the chairman shall call a special meeting of the board. The chairman shall give notice through the secretary by registered mail to each member of the board at least ten days prior to the time of any meeting, unless all members of the board waive notice in writing. The offices of the board shall be at the seat of government in the Department of Education and shall be provided by the state. Members of the board may receive a per diem of ten dollars for each regular or special meeting attended and actual expenses for

attending meetings, and may be reimbursed for other actual and necessary expenditures incurred in the state in the performance of their duties authorized by the board. The per diem and expenses shall be paid out of the appropriation for the State Board of Education. However no member of said Board shall receive more than $100.00 per annum for per diem under the provisions of this section. (1942, c. 201)

156.070 [4377-1; 4377-12; 4527-63; 4618-80] **General Powers and Duties of Board; Publication of Rules, Courses of Study, Bulletins and Other Material.**—(1) The State Board of Education shall have the management and control of the common schools, public higher education for Negroes, public vocational education and vocational rehabilitation, and the Kentucky School for the Blind.

(2) The State Board of Education may, on the recommendation and with the advice of the Superintendent of Public Instruction, prescribe, print, publish and distribute at public expense such rules, regulations, courses of study, curriculums, bulletins, programs, outlines, reports and placards as it deems necessary for the efficient management, control and operation of the schools under its jurisdiction. All rules and regulations of the board shall be published before they will be deemed in full force and effect.

(3) In its capacity as a board of control for the Kentucky State College for Negroes and the West Kentucky Vocational Training School for Negroes, the board may receive by any legal mode of conveyance, and hold and enjoy, property of any description.

Reports of local boards to State Board of Education, KRS 160.340.
Superintendent of Public Instruction to prepare material for publication, KRS 156.230, 156.240.
Teachers' certificates, State Board of Education may revoke, KRS 161.120.

156.080 [4434-30] **School Census; Forms and Rules For.**—The State Board of Education shall provide the forms to be used in the permanent and continuing school census, and may make rules and regulations for the operation of the census.

School census, KRS 159.240, 159.250.

156.090 [4502-12] **Certificates of School Employes; Board to Publish Regulations Concerning.**—The State Board of Education, upon the recommendation of the Superintendent of Public Instruction, shall publish bulletins containing information on the kinds and grades of certificates issued, the rules and regulations governing the issuance of each kind and grade of certificate, schools offering teacher-training courses, the renewal of certificates, the transfer

of certificates to and from other states, the acceptance of credentials from institutions of other states, and such other information relating to the training and certification of teachers as it deems advisable.

Certification of school employes, Ch. 161, KRS

156.100 [4363-10] **Board May Accept Federal Aid or Gift, Donation or Devise.**—The State Board of Education is authorized in its discretion to accept the provisions of any act of Congress appropriating and apportioning funds to the state for use in connection with any phase of the state's system of education. It shall prescribe such regulations as it finds necessary to provide for the proper apportionment and disbursement of these funds in accordance with the state and federal laws. Said State Board of Education may accept and provide for the administration of any gift, donation or devise to the schools under its supervision or control. (1942, c. 26)

156.110 [4377-13; 4384-13] **Removal of School Board Members and Public School Officials.**—(1) The State Board of Education shall remove any school board member under its jurisdiction from office for immorality, misconduct in office, incompetency or willful neglect of duty. A copy of the charges preferred against the officer shall be furnished him, and he shall be given an opportunity to be heard in person or by counsel upon not less than ten days' notice. Vacancies in office caused by such removal shall be filled in the manner provided by law.

(2) The Superintendent of Public Instruction shall recommend by written charges the removal by the State Board of Education of any school board member within the system of public education under the management and control of the State Board of Education who in his opinion is guilty of immorality, misconduct in office, incompetency or willful neglect of duty.

(3) The Superintendent of Public Instruction shall recommend by written charges to the proper school authorities the removal of any superintendent of schools, principal, teacher or other public school officer who in his opinion is guilty of immorality, misconduct in office, incompetency or willful neglect of duty.

156.120 [4384-2; 4384-3; 4384-4; 4384-9] **Superintendent of Public Instruction; Location of Office; Salary; Traveling Expenses.**—(1) The Superintendent of Public Instruction shall keep his office at the Capitol in such public buildings as may be provided. He shall devote his entire time to the duties of his office.

(2) He shall receive an annual salary of five thousand dollars.

(4) He and his assistants shall be reimbursed for all actual and necessary traveling expenses and disbursements incurred or made by them in the performance of their official duties, and no part of the reimbursement shall be included in or accounted as a part of their salaries. (1946, c. 26, § 5)

Bonds of public officers, Ch. 62, KRS
Election, term and qualifications of superintendent, Const. 91, 95.
Oath, Const. 228.
Succeeding term, not eligible for, Const. 93.
To be paid by salary only, Const. 96.

Johnson, Governor v. Commonwealth ex rel. Meredith, Atty. Gen., 291 Ky. 829. State executive departments, boards, or commissions may be represented by an attorney other than the Attorney General. (August 26, 1942.)

Talbott, Commissioner of Finance v. Public Service Commission, et al., 291 Ky. 109. Five thousand dollar salary limit applies to public offices except Governor, president and professors of University of Kentucky and teachers colleges, etc. It does not apply to persons rendering services under contract for Commonwealth of irregular or temporary nature, etc. (Feb. 24, 1942.)

156.130 [4384-5; 4384-7; 4384-15; 4384-32] **Superintendent Is Executive Officer of State Board of Education; General Duties.**—The Superintendent of Public Instruction shall be the executive officer of the State Board of Education in its administration of all public education placed under its management and control, and shall perform such duties as are assigned to him by the board. He shall be responsible for the administration of the Department of Education. He shall execute, under the direction of the State Board of Education, the educational policies decided upon by the board, and shall direct, under general rules and regulations adopted by the board, the work of all persons engaged in the administration of the common schools, public higher education for Negroes, and public vocational education and vocational rehabilitation. He may clothe his assistant with full power of attorney to act for him in the supervision, inspection and administration of the schools over which he has supervisory and administrative control.

School fund, superintendent to estimate amount due each district from, KRS 157.040.

Combs v. State Board of Education, et al., 249 Ky. 320. Since the Superintendent of Public Instruction sent representatives and made investigation as required by statutes, and thereafter made no charges and required no hearing by State Board of Education, and since people have relief sought through the courts, State Board of Education is not required to take further action. (May 23, 1933.)

156.140 [4384-7; 4434-31] **Superintendent to Control and Appoint Division Heads and Employes.**—The Superintendent of Public Instruction shall have general supervision of all the assistants, agents and employes in the department. He shall, subject to the provisions of KRS 42.110 to 42.150, appoint and set the salary of all division heads, assistants, agents and employes of the Department, but the appointment and dismissal of all division heads

and other professional staff members shall be upon the approval of the State Board of Education. The Department of Education shall employ at least one person who shall devote full time to the supervision of the enforcement of the compulsory attendance and school census laws.

Dismissal of subordinate officers and employes, KRS 42.140.

156.160 [4384-17; 4384-21; 4384-23; 4384-24 to 4384-30] **Superintendent to Prepare School Budget and Rules and Regulations Governing Schools, for Adoption by Board.**—The Superintendent of Public Instruction shall prepare or cause to be prepared and submit for approval and adoption by the State Board of Education:

(1) The biennial state school budget;

(2) Minimum courses of study for the different grades and kinds of common schools, and regulations governing educational equipment of the schools;

(3) Rules and regulations for grading, classifying and accrediting all common schools, and for determining the scope of instruction that may be offered in the different classes of schools, and the minimum requirements for graduation from the courses offered;

(4) Rules and regulations for taking and keeping a school census, and the forms and blanks to be used in taking and keeping the census and in compiling the required reports thereof;

(5) Regulations for the sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings and classrooms;

(6) Regulations governing medical inspection, physical education and recreation, and other rules and regulations deemed necessary or advisable for the protection of the physical welfare and safety of the public school children;

(7) Rules and regulations concerning the transportation of children to and from school;

(8) Rules and regulations for approving private and parochial schools of elementary or high school grade, and commercial schools;

(9) Rules and regulations fixing the holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(10) Rules and regulations governing the preparation of

budgets and salary schedules for the several school districts under the management and control of the State Board of Education;

(11) A uniform series of forms and blanks, educational and financial, including forms of contract, for use in the several school districts.

School busses, regulations concerning, KRS 189.540.

Madison County Board of Education v. Skinner, et al., 299 Ky. 707. Board of Education required to furnish transportation for remainder of school year 1944-45 if and when it can because of condition of roads. (April 17, 1945.)

Leslie County Board of Education v. Melton, 277 Ky. 772. Contract of teacher required to be in writing. A verbal contract is not enforceable. (April 18, 1939.)

Ebert v. Board of Education of School District of City of Newport, et al., 277 Ky. 633. In order to establish validity of indebtedness records in office of Superintendent of Public Instruction should show the same situation as record submitted to court. (March 24, 1939.)

Bullock v. Brown, 258 Ky. 522. Law requires written contract with a teacher. Petition fails to state that employment was evidenced by written contract. It, therefore, fails to state a course of action. (March 22, 1935.)

156.170 [4384-22] **Superintendent May Take Special School Census.**—The Superintendent of Public Instruction may take a special school census in any school district if he believes that the whole or any part of a census has not been accurately reported.

School census, KRS 159.240, 159.250.

156.180 [4384-10] **Superintendent May Attend Educational Conferences.**—The Superintendent of Public Instruction may attend educational associations, conventions and conferences within or without the state for the purpose of keeping informed upon and familiar with progressive educational policies and practices. When thus engaged his traveling expenses shall be paid, but his total expenses for that purpose shall not exceed fifteen hundred dollars in any one year.

Reeves, Com'r. of Revenue v. Talbott, Com'r. of Finance, 289 Ky. 581. When an executive officer makes a requisition for out of state travel in accordance with the statutes, the Commissioner of Finance should regard it as prima facie valid and proper, etc. (Dec. 16, 1941.)

156.190 [4384-16] **Superintendent May Call School Conferences.**—The Superintendent of Public Instruction may call and conduct conferences of boards of education, superintendents, supervisors, principals, teachers, attendance officers and other regular public school employes, on matters relating to the condition, need and improvement of the schools. Personal traveling expenses incurred by those attending conferences called by the Superintendent of Public Instruction shall be a legitimate public expense and may be paid by boards of education.

156.200 [4384-14; 4384-30] **Superintendent to Examine and Supervise Reports and Accounts of Boards of Education and**

Educational Institutions.—The Superintendent of Public Instruction shall receive and examine all reports required by law or by the State Board of Education and, in person or through his assistants, shall examine and advise on the expenditures, business methods and accounts of all boards of education and all institutions placed under the management and control of the State Board of Education. He shall see that all financial and educational accounts are accurately and neatly kept and that all reports are made according to the forms adopted by the State Board of Education.

Reports of local boards to State Board of Education, KRS 160.340.

Combs v. State Board of Education, et al., 249 Ky. 320. Since the Superintendent of Public Instruction sent representatives and made investigation as required by statutes, and thereafter made no charges and required no hearing by State Board of Education, and since people have relief sought through the courts, State Board of Education is not required to take further action. (May 23, 1933.)

156.210 [4384-12; 4384-15] **Superintendent to Have Access to Records; May Examine and Compel Attendance of Witnesses; Shall Report Law Violations.**—(1) The Superintendent of Public Instruction shall have access to the papers, books and records of all teachers, trustees, superintendents or other public school officials.

(2) He may administer oaths, and may examine witnesses under oath in any part of the state in any matter pertaining to the public schools, and may cause the testimony to be reduced to writing. He may issue process to compel attendance of witnesses before him and compel witnesses to testify in any investigation he is authorized to make.

(3) When he or his assistants find any mismanagement, misconduct, violation of law or wrongful or improper use of any district or state school fund, or neglect in the performance of duty on the part of any official, he shall report the same, and any other violation of the school laws discovered by him, to the State Board of Education, who shall, through the Superintendent of Public Instruction or one of his assistants, call in the county attorney or the Commonwealth's attorney in the county or district where the violation occurs, and the attorney so called in shall assist in the indictment, prosecution and conviction of the accused. If prosecution is not warrantable, the State Board of Education may rectify and regulate all such matters.

Heads of administrative departments may administer oaths and examine witnesses, KRS 12.120.

156.220 [4384-12] **Superintendent to Decide Controversies.**—The Superintendent of Public Instruction shall decide without

expense to the parties concerned all controversies and disputes involving the proper administration of the public schools, but in all such matters he shall freely consult the Attorney-General.

156.230 [4384-19; 4384-31] **Superintendent to Prepare Publications.**—(1) The Superintendent of Public Instruction shall annually prepare or cause to be prepared, and submit for approval and publication by the State Board of Education, a list of all public and private high schools or other secondary schools in the state, showing the classification of each.

(2) He shall, from time to time, prepare or cause to be prepared, and submit for approval and publication by the State Board of Education, such bulletins, programs, outlines of courses, placards, and courses of study as he deems useful in the promotion of the interests of the public schools, higher education for Negroes, vocational education and vocational rehabilitation.

(3) He shall also prepare for publication by the State Board of Education the rules, regulations, minimum standards for schools and educational policies or programs adopted by the board for the operation, regulation and government of the schools under its supervision.

156.240 [4384-11; 4384-18] **Superintendent to Prepare for Publication and Explain School Laws and Regulations.**—The Superintendent of Public Instruction shall prepare for publication, biennially, by the State Board of Education, the complete school laws of the state, including abstracts of decisions of the Court of Appeals, and opinions and interpretations of the Attorney-General and the Superintendent of Public Instruction. He shall explain the true intent and meaning of the school laws and the published rules and regulations of the State Board of Education, and in doing so he shall freely consult the Attorney-General.

156.250 [4384-20] **Biennial School Report.**—The Superintendent of Public Instruction shall biennially prepare the report of the State Board of Education to be submitted to the Governor and the General Assembly. The report shall set out the number attending the public schools, the amount of state funds apportioned and the source from which derived, the amount raised by county school and independent school district taxes or from other sources of revenue for school purposes, the amount expended for salaries of teachers, for the erection of school buildings, and for incidental and other

expenses in the operation of the public schools under his supervision, together with such other facts, statistics and information as may be deemed of interest, including recommendations for the improvement of the schools.

Copies of biennial report, number to be printed, KRS 57.140(2).

156.260 [4421a-36] **State Textbook Commission; Organization.**—(1) The State Textbook Commission shall consist of the Superintendent of Public Instruction and eight persons appointed by the State Board of Education. Beginning with 1933 two members shall be appointed each year for terms of four years. The terms shall begin on July 1.

(2) The appointive members shall be educators of high qualifications who are actually engaged in educational work in the state, and whose educational qualifications are not less than graduation from a standard senior college. No member of the Department of Education shall be appointed a member of the commission.

(3) The members of the commission shall elect one of their members as chairman and shall adopt rules and regulations for the procedure of the commission. The Superintendent of Public Instruction shall be secretary of the commission.

156.270 [4421a-37] **Conditions to be Complied With Before Textbooks Adopted or Purchased.**—Before textbooks offered for adoption and use in public schools of Kentucky may be lawfully adopted by the State Textbook Commission or purchased by any board of education, the person offering the books for adoption and use shall file with the Superintendent of Public Instruction:

(1) Copies of all textbooks that the person desires to offer for adoption and use, with a sworn statement of the list price, the lowest wholesale price and the lowest exchange price at which each of the books is sold in any adopting unit.

(2) Copies of any revision or special editions of the textbooks filed, with a statement describing in detail each point of difference from the regular edition filed, and the list price, the lowest wholesale price and the lowest exchange price at which the revision or special edition is sold anywhere in the United States.

(3) A fee of five dollars for each book filed except when a series of books is filed, in which case the fee shall be five dollars for the first book and one dollar for each additional book in the

series. The fee provided by this subsection shall be paid at each and every adoption period.

(4) A bond running to the Commonwealth of Kentucky, executed by a surety company authorized to do business in this state, in a sum not less than two thousand dollars nor more than ten thousand dollars, to be determined by the State Board of Education.

156.280 [4421a-37] **Conditions of Bond of Person Offering Textbooks.**—The bond required by subsection (4) of KRS 156.270 shall be conditioned that:

(1) The person will furnish any of the books listed in the statement filed under subsection (1) of KRS 156.270 for a period of five years from the date of the bond to any school district in Kentucky, or to any dealer appointed by the district, at the lowest wholesale price contained in the statement, f.o.b. the publisher's nearest shipping point.

(2) The person will automatically reduce such prices in Kentucky whenever reductions are made anywhere in the United States, so that no such book shall at any time be sold in Kentucky at a higher wholesale price than is received for that book elsewhere in the United States.

(3) If the person prepares an abridged or special edition of any book listed by him and sells it elsewhere at a lower wholesale price than the wholesale price set out in the filed statement, the person will file a copy of the special edition with the price thereof in a supplemental statement with the Superintendent of Public Instruction.

(4) All books sold in Kentucky will be identical with the specimen books filed with the Superintendent of Public Instruction as regards size, paper, binding, print, illustrations, subject-matter, and other particulars which may affect the value of the book.

(5) The person will not enter into any agreement, understanding or combination to control the price of textbooks or to restrict competition in their sale in Kentucky.

156.290 [4421a-37] **Form of Statement and Bond; Duration; Supplemental Statement and Bond.**—The form of the sworn statement and bond required by KRS 156.270 shall be prescribed by the Attorney-General. The bond shall be in force for the adoption period of five school years. The person may at any time while the bond is in force file a supplemental statement covering additional books or special editions of books previously filed. The supple-

mental statement shall expire at the date of expiration of the original statement and bond. Prior to the expiration of any statement and bond the person may file a new statement and bond for a further period of five years, and if he fails to do so his right to offer textbooks for adoption and use in the public schools of Kentucky shall expire on the date of expiration of the former bond.

156.300 [4421a-42] **Violation of Bond; Suit On.**—The Superintendent of schools in each district shall notify the Superintendent of Public Instruction of any violation of any of the conditions in any bond filed under KRS 156.270. If the Superintendent of Public Instruction finds that a violation has occurred, he shall instruct the Attorney-General to bring suit on the bond. Any sum recovered in such suit shall be paid into the State Treasury.

156.310 [4421a-38] **List of Basal Texts for Independent School Units Embracing City of First Four Classes, or Having School Census in Excess of 1250.**—(1) The State Textbook Commission shall, not later than March 1 in any adoption year, select and publish a list of ten books in each subject, taking into account the needs of the various types of school organizations. One of the books for each subject and grade so listed shall be the one on the uniform list for county school districts as provided in KRS 156.320. Not more than two books for any subject and grade shall be from the same person. If less than ten books in any subject and grade of sufficient merit to warrant their being listed are submitted, the commission may list fewer than ten, but in that event it shall not list more than one book for the same subject and grade from the same person. The list as soon as prepared shall be sent to the chief administrative officer of the various school units of the state.

(2) The board of education of each independent school unit embracing a city of the first, second, third or fourth class, or of an independent school district having a school census in excess of 1250, shall, upon the recommendation of its superintendent, and not later than May 1 of any adoption year, select from the list one book for each subject and grade to be used as a basal text in its school system for a period of five years, except that the board may, upon the recommendation of its superintendent and by a majority vote of the entire board, adopt a basal text or the complete series of basal texts from the uniform list adopted for use in county school districts, as provided in KRS 156.320.

(3) The list of books prepared by the State Textbook Commission shall remain unchanged for a period of five years, and not more than 33 1/3% of the list of books currently in use shall be changed at any one adoption period. The adoption periods shall commence in 1930. (1944, c. 166)

Textbooks on conservation to be selected, KRS 158.280.
Textbooks on physiology and hygiene to include, KRS 158.270.

156.320 [4421a-39] **List of Basal Texts for County School Districts and Independent School Districts Not Embracing City of First Four Classes, or Having School Census in Excess of 1250.**—The State Textbook Commission shall, not later than March 1 in any adoption year, adopt a uniform series or system of basal textbooks for use in the public schools of the county school districts and of those independent school districts not coming within the provisions of KRS 156.310. The commission shall cause the list to be printed and send the list to the administrative officer of each school unit of the state. In making the adoption of basal textbooks, the commission shall designate the subject and grade for which the adopted book is intended, and not more than one book shall be adopted for use in any one subject and grade. The adoption shall be made for a period of five years, beginning with 1930. A county board of education of a county maintaining a school term of at least nine months, upon the recommendation of its superintendent and a majority vote of the entire board, may select basal textbooks to be used in the county school district from the list adopted and approved for city school districts under KRS 156.310. (1944, c. 166)

156.330 [4421a-40] **Only Approved Books to be Used as Basal Texts.**—No textbook shall be used in any public school in Kentucky as a basal textbook unless it has been approved and adopted by the State Textbook Commission, or approved by the State Textbook Commission and adopted by the board of education having jurisdiction over the school district, in the manner provided in KRS 156.260 to 156.320. A change of a textbook made by the State Textbook Commission or by the board of education of an independent school district of any of the classes described in subsection (2) of KRS 156.310 shall not become effective until grades or classes of respective school districts of counties or cities have completed work for which the adopted book then in use was originally intended. Nothing in this section shall apply to the supplementary books that are needed from time to time. (1944, c. 166)

Schlake v. Board of Education of Ft. Thomas, et al., 240 Ky. 426. Board of Education may permit second edition of a text to be used by pupils who have it when third edition of book is adopted as one to be used. Those who get new books to get third edition. (October 9, 1931.)

156.340 [4421a-41] **Distribution of Books; Agents.**—Each board of education may appoint one or more dealers to act as official retail agents for the sale of books for use in the school district, or any school unit may purchase and distribute books to its own patrons. Persons whose books have been adopted under the provisions of KRS 156.260 to 156.320 shall furnish the books, either through the official retail agents or through respective boards of education, at the lowest wholesale price and the lowest exchange price listed with the Superintendent of Public Instruction, f.o.b. the publisher's nearest shipping point. Each official retail agent shall give a reasonable bond, if required, to the persons who have contracts to furnish adopted texts. All orders given by the retail agent or board of education shall be promptly filled. The official retail agent shall sell the books at not more than fifteen percent in excess of the listed wholesale price. Where old books, displaced by a new adoption, are offered by pupils in exchange for the corresponding new books, the new books shall be offered at a price not more than fifteen percent in excess of the listed exchange price. If any agent violates the requirements of this section, or fails to give reasonable bond requested by any person who has a contract to furnish adopted texts, the board of education that appointed the agent may, by giving notice prior to May 1 in any year, revoke the appointment on July 1 of that year. When an agent's permit is revoked or terminates, all textbooks as per inventory of the agent must be paid for at wholesale price by the person from whom the textbooks were purchased, if the textbooks are of the lawful adoption.

156.350 [4421a-43] **Pupil Removing from District; Purchase of Books From.**—When a pupil removes from any school district, the board of education of the district shall, if requested, purchase from the pupil the textbooks in actual use by him at the time. The price shall be based upon the condition of the books. The books may be sold by the board of education, or furnished to indigent children in the district.

156.360 [4421a-45] **School Official or Employe Not to Act as Book Agent.**—No superintendent, teacher or other official or employe of any institution supported wholly or in part by public

funds shall act, either directly or indirectly, as agent for any person whose school textbooks are filed with the Superintendent of Public Instruction under KRS 156.270.

156.370 [4421a-44] **Reward for Adoption of Books Forbidden.**—No person shall secure or attempt to secure the adoption of any school textbook in any school district in this state by rewarding or promising to reward, directly or indirectly, any person in any public school in the state. No person shall offer or give any emolument to any person in any school district for any vote or promise to vote, or the use of his influence, for any school textbook to be used in this state.

156.380 [4421a-45] **Disposition of Sample Books.**—Sample books submitted to members of the State Textbook Commission for examination shall remain the property of the person submitting them if claimed within thirty days after adoption. If not claimed within that period they shall be sold by the State Board of Education.

156.990 [4384-15; 4421a-46] **Penalties.**—(1) Any witness who fails, without legal excuse, to attend or to testify, when required by the Superintendent of Public Instruction under the provisions of KRS 156.210, shall be fined not more than twenty-five dollars for each offense.

(2) Any person who violates any of the provisions of KRS 156.260 to 156.380 shall be fined not more than five hundred dollars or imprisoned not more than three months, or both.

Combs v. State Board of Education, et al., 249 Ky. 320. Since the Superintendent of Public Instruction sent representatives and made investigation as required by statutes, and thereafter made no charges and required no hearing by State Board of Education, and since people have relief sought through the courts, State Board of Education is not required to take further action. (May 23, 1933.)

CHAPTER IV

STATE SUPPORT OF EDUCATION

157.010 School fund; what constitutes
157.020 Purposes for which school fund may be used
157.030 Net revenue to be distributed; incidental expenses not to be deducted
157.040 Distribution of fund on per capita basis
157.050 Method of distribution
157.051 Definitions for KRS 157.052 to 157.055
157.052 School equalization fund distribution, who to make
157.053 Eligibility for aid from equalization fund; how determined; annual study; ranking of districts; basis of distribution
157.054 Time of allotment and distribution of equalization fund
157.055 Administration and expenditure of equalization fund; rules for; liability for
157.060 Reports of funds received and spent by school districts
157.070 War orphans; aid to
157.080 Method of paying aid; determination of eligibility
157.090 Maximum allowed each child; vocational aid if surplus exists
157.100 Purchase of textbooks for free distribution
157.110 Order of distribution to grades
157.120 Requisitions for books; shipments; invoices
157.130 Rules to be made concerning purchase, requisition, distribution, care and use of books
157.140 Return of books; reissuance to white and colored children
157.150 Books are property of state; requisitioning officer to have custody and issue
157.160 Worn out books; sale of
157.170 Private use; sale of books for
157.180 Teachers or employes engaged in distribution of books not to sell school supplies
157.190 Free textbooks for children in correctional institutions
157.990 Penalties

CROSS REFERENCES

Sectarian schools, appropriation for forbidden, Const. 189 Colored students, tuition and fees in institutions outside of state to be furnished, KRS 166.160.

157.010 [4370-1; 4370-2] **School Fund; What Constitutes.**—The school fund shall consist of the fund dedicated by the Constitution and laws of this Commonwealth for the purpose of sustaining a system of common schools therein. The annual resources of the fund shall consist of:

(1) The interest on the bond of the Commonwealth for $1,327,000 at the rate of six percent per annum payable on the first day of January and July of each year.

(2) The interest on the proceeds of $52,000 formerly invested in Liberty Loan Bonds under authority of Chapter 6 of the Acts of 1920, now invested by the State Board of Education.

(3) The dividends from whatever remains of the original investment of $73,500 in the capital stock of the Bank of Kentucky.

(4) The interest on the bond of the Commonwealth for $381,986.08 due the several counties and remaining a perpetual obligation against the Commonwealth for the benefit of the respective counties, at the rate of six percent per annum payable annually on the first day of July to the counties entitled to it and in the proportion to which they are entitled, to be used exclusively in aid of common schools.

(5) The interest at six percent per annum, payable on the first day of January and July each year, on $606,641.03 received from the United States under an Act approved March 2, 1891 for which the Commonwealth has executed bond pursuant to Chapter 6 of the Acts of 1892.

(6) Such sums as are appropriated by the General Assembly in aid of the common schools.

Fund set apart for common schools, Const. 184, 188.
Investment and distribution of school fund, Const. 185, 186.
Race or color not to affect distribution of school fund, Const. 187.

Commonwealth, by Board of Revenue Agent v. Louisville National Bank, 220 Ky. 89. School taxes can be classified only as state taxes, and not as local taxes levied and collected exclusively for particular territory, district, or subdivision in which they may be expended. (May 20, 1927.)

See also: **City of Louisville v. Commonwealth for School Board, 134 Ky. 488, 121 S. W. 411; City of Louisville v. Board of Education, 154 Ky. 316, 157 S. W. 379; Whitt v. Wilson, 212 Ky. 281, 278 S. W. 609; North Vernon Lumber Co. v. City of Louisville, 163 Ky. 467, 173 S. W. 1120; Hoskins v. Ramsey, 197 Ky. 465, 247 S. W. 371.** (May 20, 1927.)

Crabbe, Etc., v. Board of Trustees, 132 Ky. 478. School fund to be used solely for educational purposes.

Collins v. Henderson, 11 Bush 74. It was held that the school fund must be used exclusively in aid of common school, and an act appropriating a part of the schol fund to purchase "Collins' History of Kentucky" was unconstitutional.

157.020 [4370-2; 4370-3] **Purposes for Which School Fund May Be Used.**—The resources of the common school fund shall be paid into the treasury and shall be drawn out or appropriated only to pay the expenses of the State Department of Education of whatever character or kind, to pay the teachers of the common schools legally qualified and employed, and in aid of common schools as provided by statutes. No part of the common school fund or of the revenue thereof distributed to school districts shall be used for any purpose other than the payment of the teachers of the common schools legally qualified and employed.

Qualifications required to entitle school to share in school fund, KRS 158.030.
School fund to be used "for the purpose of sustaining the system of common schools," Const. 184.

Underwood v. Wood, 93 Ky. 177. The Legislature has no power to divide the common school fund in a particular district, and appropriate a part of this to the payment of teachers in a private school.

Halbert v. Sparks, 9 Bush 259; Underwood v. Wood, 93 Ky. 177. The school fund cannot be devoted to payment of teachers salaries not under control of the officers of common schools.

157.030 [4370-3] **Net Revenue to be Distributed; Incidental Expenses Not to be Deducted.**—The net revenue of the common school fund accruing during each school year shall constitute the sum to be distributed. No fee, discount, check or other incidental expense shall be paid out of the distributable share of the revenue apportioned to any school district.

157.040 [4370-4; 4434-29] **Distribution of Fund on Per Capita Basis.**—The Superintendent of Public Instruction shall, on or before July 1 in each year, ascertain and estimate for the school year the amount of the common school fund to which each school district will be entitled according to the number of children listed in its census enumeration as shown by the annual report of the attendance officer. If at the time of making the estimate and apportionment the census of any school district has not been determined, the census returns made for the preceding school year shall be used. The Department of Finance shall furnish the Superintendent of Public Instruction any data needed in making the estimate and apportionment. The Superintendent of Public Instruction shall, as soon as practical, file a copy of the estimate and apportionment with the Department of Finance, and inform the board of education of each school district of the amount to which the district is entitled. Any difference between the estimated and the actual revenue of the school fund for any school year shall be taken into account in making the estimate and apportionment for the succeeding school year.

157.050 [4370-6] **Method of Distribution.**—For each school year the Department of Finance, on the certification of the Superintendent of Public Instruction, shall draw a warrant on the treasurer for the amount of the school fund due each district. The checks or warrants, in case the warrants are stamped interest-bearing, shall be turned over to the Superintendent of Public Instruction for distribution to the proper officials of the several school districts when the districts have fully complied with the school laws and rules and regulations of the State Board of Education. The school fund shall be distributed in the same number of installments as there are months in the minimum school term declared by the Superintendent of Public Instruction upon the approval of the State Board of Education. The first installment shall be paid on or before August 1 of each year to those districts whose terms begin during the month of July and the first installment shall be paid

on or before September 1 of each year to all other districts and the subsequent installments paid on or before the first day of each succeeding month until all of the installments have been paid. (1942, c. 123)

157.051 Definitions for KRS 157.052 to 157.055. As used in KRS 157.052 to 157.055:

(1) "Equalization fund" means a special fund of ten percent of the total appropriation for common school fund, appropriated by the General Assembly for the specific purpose of equalizing education service in the less able local school districts of Kentucky.

(2) "Adjusted recurring revenue" means all recurring revenue other than that produced by a subdistrict tax and that received by a school district from the equalization fund; provided that in a county school district only the amount of ad valorem revenue is included that was accrued at the tax rate of seventy-five cents per one hundred dollars of assessed valuation of property subject to local taxation, and that in an independent school district only the amount of ad valorem revenue is included that was accrued at the tax rate of one hundred cents per hundred dollars of assessed valuation of property subject to local taxation.

(3) "Arithmetic mean index" means the quotient obtained when the sum of the average daily membership and the average daily attendance in a school district is divided by two.

(4) "Net-ability index" means the quotient obtained when the total adjusted recurring revenue of a school district is divided by the arithmetic mean index. (1942, c. 17, § 1; 1946, c. 131, § 1)

157.052 School Equalization Fund Distribution, Who to Make.—The equalization fund shall be distributed and administered under the direction of the Superintendent of Public Instruction, with the approval of the State Board of Education, as provided in KRS 157.053 to 157.055. (1942, c. 17, § 2; 1944, c. 113; 1946, c. 131, § 2)

Fiscal Court of Monroe County v. Board of Education, Monroe County, 294 Ky. 758. To qualify for receiving equalization fund board of education must have maximum poll tax as well as the tax on bank shares and ad valorem tax. (June 22, 1943.)

157.053 Eligibility for Aid from Equalization Fund; How Determined; Annual Study; Ranking of Districts; Basis of Distribution.—(1) Any board of education that has had its budgets and salary schedule for the ensuing school year approved by the State Board of Education, whose ratio of assessed valuation of property

to fair cash value is equal to the average ratio throughout the state, as certified to the State Board of Education by the Kentucky Tax Commission, and has levied for school purposes a tax of at least seventy-five cents on each one hundred dollars of property subject to local taxation and not less than the ad valorem tax levy made for the previous school year, shall have the privilege of applying for aid from the equalization fund.

(2) The Superintendent of Public Instruction shall make a careful study to determine annually the amount of adjusted recurring revenue that is available for the education of each pupil based on average daily membership and average daily attendance in the public schools in each school district in Kentucky. This study which shall be used as a basis for the distribution of moneys from the equalization fund, shall be based upon records and reports for the school year ending June 30 immediately preceding such study. After all school districts in the state have been arranged in a rank order from high to low according to their net-ability indices, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall distribute the equalization fund to districts qualifying under KRS 157.051 to 157.055 so that, when the total adjusted recurring revenue of all participating districts plus the total equalization appropriation is divided by the total arithmetic mean indices of all participating districts, it will give the same amount of money per pupil per year represented in the arithmetic mean index in each participating school district. (1942, c. 17, § 3; 1944, c. 113; 1946, c. 131, § 3)

Fiscal Court of Monroe County v. Board of Education, Monroe County, 294 Ky. 758. To qualify for receiving equalization fund board of education must have maximum poll tax as well as the tax on bank shares and ad valorem tax. (June 22, 1943.)

157.054 Time of Allotment and Distribution of Equalization Fund.—The special fund shall be allotted to the local boards of education which meet the provisions of KRS 157.052 to 157.055 by the Superintendent of Public Instruction with the approval of the State Board of Education on or before April 1, prior to the beginning of each school year except in 1942, when such allotment shall be made on or before June 1. The funds so allotted shall be distributed to the local boards of education regularly as a supplement to the state per capita funds provided for such districts. (1942, c. 17)

157.055 Administration and Expenditure of Equalization Fund; Rules For; Liability For.—The Superintendent of Public Instruc-

tion with the approval of the State Board of Education shall prescribe rules and regulations governing the administration and expenditure of any moneys allotted to local school districts from this special fund. The money allotted to any local board of education under the terms of KRS 157.052 to 157.055 shall be received and held and expended by it under the same liability and responsibility as provided by law for other funds which come into the hands of such board. (1942, c. 17)

Interest-bearing warrants, when issued, KRS 41.180.

157.060 [4370-5] **Reports of Funds Received and Spent by School Districts.**—The officials of each educational institution and each school district supported in whole or in part from taxation shall make a report to the State Board of Education at the close of each scholastic year, showing in detail all funds received from the state and from all other sources during the year, and a detailed statement of all expenditures for the year.

157.070 [4376b-11] **War Orphans; Aid to.**—If a sum is appropriated for the purpose, the matriculation fees, board, room rent, books and supplies for attendance at a state educational institution of secondary or college grade shall be provided for children, not over twenty-two years of age and who have had their domicile in Kentucky for twelve months, of World War Veterans who were killed or died between April 6, 1917 and July 2, 1921 as a result of service in the United States Army, Navy or Marine Corps. Such children may be admitted to state institutions of secondary or college grade free of tuition.

Scholarships for World War Veterans, KRS 164.480.

157.080 [4376b-12] **Method of Paying Aid; Determination of Eligibility.**—The amounts due to any educational or training institution under KRS 157.070, not in excess of the amount specified in KRS 157.090, shall be paid to the institution on vouchers approved by the State Board of Education from the fund appropriated. The State Board of Education shall determine the eligibility of the children who make application for the benefits provided in KRS 157.070, and satisfy itself of the attendance of the children at any such institution and of the accuracy and reasonableness of the charge submitted to the board by the authorities of the institution. No member of the State Board of Education or its secretary shall receive any compensation for such services.

157.090 [4376b-13] **Maximum Allowed Each Child; Vocational Aid if Surplus Exists.**—Not more than $150 shall be paid under the provisions of KRS 157.070 for any one child for any one school year. If all of the sum appropriated is not consumed for the purposes provided for in KRS 157.070, the State Board of Education, on recommendation of the Commander of the American Legion, Department of Kentucky, may appropriate the balance to children eligible for aid under KRS 157.070 who desire to enroll in vocational, technical or business schools, but not more than six scholarships in such schools may be so awarded in any one year.

FREE TEXTBOOKS

157.100 [4421c-1; 4421c-4] **Purchase of Textbooks for Free Distribution.**—The Superintendent of Public Instruction, subject to the approval of the State Board of Education, shall purchase textbooks from the publishers whose books have been adopted by the State Textbook Commission and distribute them without cost to pupils attending grades one to eight, of the free public schools of the state, in the manner and upon the conditions set out in KRS 157.110 to 157.180.

Indigent children, board of education of school district may furnish free textbooks to, KRS 160.330.

State Textbook Commission, adoption of books by, KRS 156.260 to 156.370.

State Board of Education, et al. v. Kenney, et al., 230 Ky. 287. Providing for purchasing and paying for free textbooks in common schools, held not violative of Constitution, section 49, as creating debt beyond constitutional limit. Payment for free school books not intended to be appropriated from common school fund of Commonwealth, and purchasing of books not to be construed as ordinary expense of government. No fund appropriated for same, cannot buy, board of education could not purchase and pay for free textbooks to be used in common schools of Commonwealth under acts of 1928, chapter 48 and Kentucky Statutes, Supplement of 1928, section 4019, where none of school fund had been appropriated for that purpose, and where general fund has been exhausted by appropriating power of legislature, under acts of 1928, chapter 128, leaving no fund out of which warrants for price of books could be paid. Acts of 1928, chapter 48, providing for purchasing and paying for free textbooks in common schools, held not violative of Constitution, section 49, as creating debt beyond constitutional limit. (July 3, 1929.)

157.110 [4421d-1] **Order of Distribution to Grades.**—In the purchase and distribution of textbooks the State Board of Education shall first furnish textbooks to the first grade, then, if additional funds are available, to the second grade, and so on, until the fund is exhausted. If sufficient funds are not available to furnish all the textbooks to any grade, then the board may determine for what subject or subjects in that particular grade textbooks shall be provided.

157.120 [4421c-4; 4421c-5] **Requisitions for Books; Shipments; Invoices.**—Purchase of books shall be upon requisitions of county superintendents, independent graded school principals or city

superintendents. The Superintendent of Public Instruction shall prepare or cause to be prepared requisition forms on which each county superintendent, independent graded school principal, or city superintendent shall requisition the books needed for the next ensuing school term in his district. The requisition shall be filed with the Superintendent of Public Instruction at least 120 days before the beginning of school in the various districts. The Superintendent of Public Instruction, under the direction of the State Board of Education, shall order from the various publishers the textbooks that have been requisitioned. The textbooks shall be shipped by the publisher, by prepaid freight, express or parcel post, as directed by the Superintendent of Public Instruction, direct to the county superintendent, city superintendent, or independent graded school principal. The publishers shall issue invoices in triplicate. One shall be sent direct to the Superintendent of Public Instruction and two shall be sent to the superintendent of principal receiving the books. Upon receipt of the books the superintendent or principal shall check the shipment against the invoice and send one verified invoice to the Superintendent of Public Instruction as a receipt for the shipment. The State Board of Education may then order payment.

157.130 [4421c-7; 4421c-11; 4421d-1] **Rules to be Made Concerning Purchase, Requisition, Distribution, Care and Use of Books.**—The Superintendent of Public Instruction shall, subject to the approval of the State Board of Education, make rules and regulations governing the purchase, requisition, distribution, assignment to pupils, care, use and return of textbooks and a plan for permanently labeling the textbooks as the property of the state.

157.140 [4421c-11] **Return of Books; Reissuance to White and Colored Children.**—Each pupil, or his parent or guardian, shall be responsible to the teacher for all books not returned by the pupil, and a pupil not returning all books delivered to him shall not be entitled to the benefits of KRS 157.100 to 157.180 until the books are paid for by the parent or guardian or accounted for in keeping with the regulations of the State Board of Education. No textbook issued under KRS 157.100 to 157.180 to a white school child shall ever be reissued to a colored school child, and no textbook issued to a colored school child shall ever be reissued to a white school child.

157.150 [4421c-6] **Books are Property of State; Requisitioning Officer to Have Custody and Issue.**—All textbooks purchased under the provisions of KRS 157.100 are the property of the state. Each superintendent or principal making requisition for the books is custodian of the books in his district. He shall issue the books to the various schools in his district according to the rules and regulations formulated by the Superintendent of Public Instruction, subject to the approval of the State Board of Education.

157.160 [4421c-8] **Worn-out Books; Sale of.**—The Superintendent of Public Instruction, subject to the approval of the State Board of Education, shall make rules and regulations for the disposal of textbooks no longer in condition to be used for purposes of instruction. Any funds accruing from the sale of such books shall be paid into the treasury.

157.170 [4421c-9] **Private Use; Sale of Books for.**—The Superintendent of Public Instruction, subject to the approval of the State Board of Education, shall make rules and regulations governing the sale of textbooks by superintendents or principals to pupils, parents, or guardians of pupils attending the public schools of the state who desire to hold textbooks as their own property. Principals or superintendents shall not sell textbooks to private or sectarian schools. Books sold under this section shall be sold at the retail contract price. Funds accruing from the sales shall be paid into the treasury.

157.180 [4421c-7] **Teachers or Employes Engaged in Distribution of Books Not to Sell School Supplies.**—No teacher or school employe engaged in the distribution of textbooks under the provisions of KRS 157.100 to 157.170 shall sell, distribute, or in any way deal in any kind of school furniture or supplies for use in the public schools.

157.190 Free Textbooks for Children in Correctional Institutions.—(1) The Superintendent of Public Instruction, subject to the approval of the State Board of Education, shall provide basally adopted textbooks without cost to all children between the ages of six and eighteen who are confined in any State correctional institution in this State and who are regularly enrolled in classes of Elementary grades. The textbooks shall be provided upon requisitions made by the person or persons in charge of the correctional institution.

(2) The Superintendent of Public Instruction may have an investigation made, at any time, to determine the need for the number and kinds of books requisitioned and to determine if the books are being properly taken care of. If he finds anything that is improper about the requisitioning and use of such books he shall report it to the State Board of Education.

(3) The books provided pursuant to this section shall be paid for out of the appropriations for the purchase of free textbooks for pupils attending free public schools. (1942, c. 24)

157.990 [4421c-10] **Penalties.**—Any person who willfully violates any of the provisions of KRS 157.100 to 157.180 shall be fined not less than one hundred dollars nor more than five hundred dollars.

CHAPTER V

CONDUCT OF SCHOOLS

158.010 Uniform school system to be maintained
158.020 Separate schools for white and colored children
158.030 Common school defined; who may attend; age of entrance
158.050 School year
158.060 School month and school day
158.070 School term
158.080 Private schools; courses; term
158.090 Kindergartens; night schools
158.100 School service, districts to provide
158.110 Transportation of pupil
158.115 Supplementation of school bus transportation system by county out of general funds
158.120 Nonresident pupils; tuition
158.130 Pupils sent to other districts
158.140 Admission to high school; promotion; classification
158.150 Suspension or expulsion of pupils
158.160 Diseases; epidemics; school may be closed
158.170 Bible to be read
158.180 Books criticizing school of healing prohibited
158.190 Sectarian, infidel or immoral books prohibited
158.200 Moral instruction; board of education may provide
158.210 Survey of religious preferences may be made
158.220 Time and place of moral instruction
158.230 Arrangements with persons in charge
158.240 Credit for moral instruction
158.250 Pupils not taking moral instruction
158.260 Cost of moral instruction
158.270 Instruction as to nature and effect of alcoholic liquor and narcotics required; textbooks to include these subjects
158.280 Instruction in conservation; selection of books for
158.990 Penalties.

CROSS REFERENCES

Cigarette smoking prohibited on school ground, KRS 438.050
Courses of study, Department of Education to prescribe, KRS 156.160
Flags to be furnished schools, KRS 2.040
Libraries of schools, Library Extension to aid, KRS 171.140
Physically handicapped children, schools for, KRS 159.060
Practice schools, KRS 164.380
Students called into active service in National Guard, KRS 38.470
Textbooks, selection and use, KRS 156,260 to 156.370
Truant schools, KRS 159.190 to 159.230

158.010 [4363-1] **Uniform School System to be Maintained.**—A uniform system of common schools shall be maintained in Kentucky.

Local or special Act for common school prohibited, Const. 59(25).

158.020 [4363-8; 4399-49] **Separate Schools for White and Colored Children.**—(1) Each board of education shall maintain separate schools for the white and colored children residing in its district.

(2) No person shall operate or maintain any college, school or institution where persons of both the white and colored races are received as pupils.

(3) No instructor shall teach in any college, school or institution where persons of both the white and colored races are received as pupils.

(4) No white person shall attend any college, school or institution where colored persons are received as pupils or receive instruction.

(5) No colored person shall attend any college, school or institution where white persons are received as pupils or receive instruction.

(6) The provisions of this section do not apply to any penal institution or house of reform.

Colored blind, education of, KRS 167.180.
White and colored to share school fund proportionately, separate schools for, Const. 187.
Asher, et al. v. Huffman, 295 Ky. 312. Any person having an appreciable admixture of negro blood is not legally entitled to attend a school conducted for white people. (October 1, 1943.)
Prowse v. Board of Education of Christian County, 134 Ky. 365. Although the Constitution requires the general assembly to maintain separate schools for white and colored children, it does not require a separate system of education for each.
Berea College v. Com., 123 Ky. 209. So much of this section as prohibits the operation by any institution of learning of separate and distinct branches for white and colored persons less than twenty-five miles distant from each other is unreasonable and void as not being within the police power of the state.

158.030 [4363-2] **Common School Defined; Who May Attend; Age of Entrance.**—A "common school" is an elementary or secondary school of the state supported in whole or in part by public taxation. No school shall be deemed a "common school" or receive support from public taxation unless the school is taught by a qualified teacher for a term of eight or more months during the school year and every child residing in the district who is six years of age and over has had the privilege of attending it. Provided, however, that any child who is six years of age or who may become six years of age by January 1 following the opening of school may enter school provided that he enters within thirty calendar days of the beginning of that school year, with the exception that in schools having mid-year promotions any child who is six years of age or who may become six years of age within thirty calendar days after the opening of the second semester may enter school at the beginning of that semester. Any child who becomes six years of age later than January 1 following the opening of the school year shall not enter school during that year and in

schools having mid-year promotions any child who becomes six years of age later than thirty days after the opening of the second semester shall not enter school during that semester. (1946, c. 155, § 1)

Collins v. Henderson, 11 Bush 74. Common schools are schools actually taught by teachers qualified according to law to teach in districts laid out by authority of the school law and under the control of the trustees elected under those laws.

Newman v. Thompson, 9 R. 199. Teaching of higher branches of learning in common school is not a violation of common school law.

158.050 [4363-3] **School Year.**—The school year shall begin on July 1 and end on June 30.

Fiscal year for school districts, KRS 160.450.

158.060 [4363-6] **School Month and School Day.**—Twenty school days, or days in which teachers are actually employed in the schoolroom, shall constitute a school month in the common schools. The legal holidays designated by the State Board of Education to be observed shall be counted as school days. No teacher shall teach on Saturdays except in cases of emergency and then only upon authorization of the State Board of Education. Six hours of actual school work shall constitute a school day. The daily session, including recesses and intermissions, shall not exceed nine hours.

158.070 [4370-7] **School Term.**—The minimum school term shall be seven school months. The Superintendent of Public Instruction, upon the approval of the State Board of Education, may extend the minimum term to eight, nine or ten months when the resources of the school fund or contributions by local taxation or donations justify the extension, but no extension shall be made if it reduces the salaries of the teachers below the minimum fixed by law. A board of education may extend its term beyond the minimum term set by the Superintendent of Public Instruction.

158.080 [4434-3] **Private Schools; Courses; Term.**—Private and parochial schools shall be taught in the English language and shall offer instruction in the several branches of study required to be taught in the public schools of the state. The term of the school shall not be for a shorter period in each year than the term of the public school provided in the district in which the child attending the school resides.

158.090 [4399-50] **Kindergartens; Night Schools.**—The board of education of any school district may establish and maintain kindergartens for children from four to six years of age and, subject to the approval of the Superintendent of Public Instruction,

may establish such night schools, industrial schools and other schools for the residents of the district as it deems advisable.

158.100 [3480-1; 3480-2; 4363-5a; 4399-2; 4399-3] **School Service, Districts to Provide.**—(1) Each county school district shall provide at least an approved twelve-grade school service. An approved eight-grade service for all pupils residing in the district shall be provided by maintaining the schools or by contract with another district. An approved high school service for all children of high school grade under twenty-one years of age residing in the district shall be provided either by maintaining the schools within the county or by contract with an independent district within the county.

(2) Each independent school district shall provide at least an approved twelve-grade school service. An approved eight-grade school service shall be provided for the white children residing in the district by maintaining schools. An approved eight-grade service for colored children residing in the district shall be provided either by maintaining the schools or by contract with another district. An approved high school service for all children of high school grade under twenty-one years of age residing in the district shall be provided either by maintaining the schools within the district or by contract with another independent district in the county.

(3) If the number of pupils of high school grade below twenty-one years of age of either race in any county or independent district is not sufficient to maintain a high school for that race, the board shall provide high school service by contract with another county or independent district that maintains an approved high school, and shall furnish daily transportation to the high school, or in lieu of transportation shall provide for the board and room of the pupils within reasonable walking distance of such school if it is found more feasible or more economical to do so. The board and room shall not cost more than one hundred dollars per annum for any pupil.

(4) The board of education of an independent district embracing a city of the third class may contract with any private institution, which offers a course of study approved by the State Board of Education as an accredited high school course in commercial subjects, for the instruction of students residing in the

district. The contract shall provide the amount, manner and time of payments for the instruction.

Board of Education of Berea, et al. v. Ballard, et al., 299 Ky. 370. The constitutional provision that in distributing school fund no distinction shall be made on account of race or color and separate schools for white and colored children shall be maintained was not violated because the term of colored graded school was one month shorter during the year than that of similar school for white pupils, especially where there was no allegation that the faculty, facilities, or equipment of the schools were unequal. (February 9, 1945.)

Board of Education of Taylor County v. Board of Education of City of Campbellsville, et al., 292 Ky. 261. Where school property held in trust for the particular purpose of educating colored children and where nothing in statutes prohibits, it is only reasonable and just that the use and control of the property should be placed under jurisdiction of the city board upon which the statutes place the duty of educating them. (November 27, 1942.)

Bd. of Trustees of Bromley Ind. Sch. Dist., No. 38 v. State Bd. of Edu., 269 Ky. 253, 106 S. W. (2d) 985. State Board may authorize an independent graded school district which has less than 250 pupils to run temporarily as such district for a period of one year or any number of years not exceeding four, Its action in consolidating it with the county district will not be disturbed unless it be shown that it acted arbitrarily and unreasonably. It was not shown that it had so acted in this case. State Board did not abuse discretion in placing into county district independent district of Bromley. State Board may grant permit to operate as independent district for period from one to four years. (June 15, 1937.)

City of Covington v. State Tax Commission, 231 Ky. 606. Court held, "That the northern boundary of the city of Covington under the descriptions found in the controlling instruments bearing upon that question is the Ohio River, and that there is nothing contained in such descriptions limiting such boundary to low water mark on the south shore of that stream, that in such case the law construes the boundary as extending to the center or thread of the stream, and which rule applies to a municipal boundary on such streams the same as to boundaries of a riparian owner on a water course." (Nov. 22, 1929.)

Nelson v. Board of Education of the City of Williamsburg, et al., 215 Ky. 40. Where a fourth class city district, which voted bonds with which to build a schoolhouse, was abolished and a graded school district succeeded it, the board of trustees of the graded school district has authority to sell these bonds and expend the proceeds for building a schoolhouse, especially where boundaries of the new school district are the same as the boundaries of the abolished district.

Elkhorn Coal Co. v. Wright, et al., 230 Ky. 33. Where graded common school districts have been established and in operation for a long time, public policy is against declaring original organization fatally defective unless there is some unsuperable obstacle present. (June 11, 1929.)

158.110 [4399-20] **Transportation of Pupils.**—Boards of Education shall furnish transportation from their general funds or otherwise for pupils of elementary grade who do not reside within reasonable walking distance of the school provided for them, and any board of education may provide transportation from its general funds or otherwise for any pupil of any grade who does not live within a reasonable walking distance from the school provided for him. The boards of education shall adopt such rules and regulations as will insure the comfort, health and safety of the children who are transported, consistent with the rules and regulations of the State Board of Education dealing with the transportation of pupils. (1944, c. 173)

Insurance of school busses, KRS 160.310.
Sectarian school, state aid to prohibited, Const. 189.
Transportation of pupils, regulations concerning, KRS 158.160.

Madison County Board of Education v. Skinner, et al., 299 Ky. 707. Board of Education required to furnish transportation for remainder of school year 1944-45 if and when it can because of condition of roads. (April 17, 1945.)

Kirkpatrick's Adm'x. (Bronaugh) v. Murray, et al., 294 Ky. 715. Members of boards of education are individually responsible if they fail to act as required

by statute concerning carrying liability insurance on school buses. (June 15, 1943.)

Hines v. Pulaski County Board of Education, et al., 292 Ky. 100. Statute requiring free transportation for all children of elementary grades not within reasonable walking distance of the school they are to attend is mandatory. (November 17, 1942.)

Sherrard v. Jefferson County Board of Education, et al., 294 Ky. 469. The portion of the school law requiring that pupils attending private schools be given the same transportation rights and paid for from public school funds as pupils of the public schools is unconstitutional. (December 18, 1942.)

Lincoln County Board of Education, et al. v. Carter, 240 Ky. 112. County board of education did not act arbitrarily in refusing to pay tuition where it furnished school and transportation to same which made it convenient for pupil to attend. (May 8, 1931.)

158.115 Supplementation of School Bus Transportation System by County Out of General Funds.—Each county may furnish transportation from its general funds, and not out of any funds or taxes raised or levied for educational purposes or appropriated in aid of the common schools, to supplement the present school bus transportation system for the aid and benefit of all pupils of elementary grade attending school in compliance with the compulsory school attendance laws of the Commonwealth of Kentucky who do not reside within reasonable walking distance of the school they attend and where there are no sidewalks along the highway they are compelled to travel; and any county may provide transportation from its general funds to supplement the present school bus transportation system for the aid of any pupil of any grade who does not live within reasonable walking distance of the school attended by him in compliance with the compulsory school attendance laws and where there are no sidewalks along the highway he is compelled to travel. (1944, c. 156)

Nichols, et al. v. Henry, 301 Ky. 434. The statute providing supplementary transportation for children attending school in compliance with compulsory school attendance laws, providing for payment of such transportation from general funds of county, making transportation available to children attending common, private, sectarian, or parochial schools, is tax legislation for a public purpose and is not violative of constitutional provision prohibiting special privilege or requiring tax levies for public purposes only. (November 27, 1945.)

Madison County Board of Education v. Skinner, et al., 299 Ky. 707. Board of Education required to furnish transportation for remainder of school year 1944-45 if and when it can because of condition of roads. (April 17, 1945.)

158.120 [4399-51] **Nonresident Pupils; Tuition.**—Any board of education may charge a reasonable tuition fee per month for each child attending its schools whose parent, guardian or other legal custodian is not a bona fide resident of the district. Any controversy as to the fee shall be submitted to the State Board of Education for final settlement. The fee shall be paid by the board of education of the school district in which the pupil resides, except in cases where the board makes provision for the child's education within his district. If a board of education is required to pay a

pupil's tuition fee, the pupil shall be admitted to a school only upon proper certificate of the board of education of the district in which he resides.

Board of Education of Louisville v. County Board of Education for Jefferson County, et al., 265 Ky. 447. When inmate of children's home is placed in a home the child becomes a resident of that district wherein it is placed and such district has right to include child in census and receive school per capita from the Commonwealth. (October 6, 1936.)

Wirth, et al. v. Board of Education for Jefferson County, et al., 262 Ky. 291. A child in an orphans' home is a resident of the district wherein he was placed and was entitled to attend school while in boarding home without paying tuition. (November 26, 1935.)

Hellier Graded School District, et al. v. Pike County Board of Education, 233 Ky. 63. Where there was no written or verbal contract, county board of education was not obligated by implied contract to pay graded school district for tuition of pupils within county but outside of district attending such graded school. (February 14, 1930.)

Board of Education of City of Jackson v. Breathitt County Board, 222 Ky. 46. Oral agreement of county school board relative to payment to city of expense of tuitioning and housing pupils in city's colored school held valid and binding on county board. (November 25, 1927.)

158.130 [4399-52] **Pupils Sent to Other Districts.**—When it appears to the board of education of any school district that it is convenient for a pupil of any grade residing in that district to attend an approved public school in another district, the board of education may enter into a tuition contract with the public school authorities of the other school district for that purpose, but before such a contract is entered into with public school authorities in another state the school must have been approved by the state school authorities of that state through the grades in which the pupil belongs. When a district undertakes, under operation of a tuition contract or of law, to provide in its school for pupils residing in another district, the district of their residence shall share the total cost of the school, including transportation when furnished at public expense, in proportion to the number of pupils or in accordance with contract agreement between the two boards.

158.140 [4363-5] **Admission to High School; Promotion; Classification.**—When a pupil in any public elementary school or any approved private or parochial school completes the prescribed elementary course of study he is entitled to a certificate of completion signed by the teacher or teachers under whom the course was completed. The certificate shall entitle the pupil to admission into any public high school. Any promotions or credits earned in attendance in any approved public school are valid in any other public school to which a pupil may go, but the superintendent or principal of a school, as the case may be, may assign the pupil to the class or grade to which the pupil is best suited. In case a pupil transfers from the school of one district to the school of another district an as-

signment to a lower grade or course shall not be made until the pupil has demonstrated that he is not suited for the work in the grade or course to which he has been promoted.

158.150 [4363-9] **Suspension or Expulsion of Pupils.**—All pupils admitted to the common schools shall comply with the lawful regulations for the government of the schools. Willful disobedience or defiance of the authority of the teachers, habitual profanity or vulgarity, or other gross violation of propriety or law constitutes cause for suspension or expulsion from school. The superintendent, principal or head teacher of any school may suspend a pupil for such misconduct, but shall report such action in writing immediately to the superintendent. The board of education of any school district may expel any pupil for misconduct as defined in this section, but such action shall not be taken until the parent, guardian or other person having legal custody or control of the pupil has had an opportunity to have a hearing before the board. The decision of the board shall be final.

Teacher responsible for conduct of children, KRS 161.180.

Byrd, et al. v. Begley, 262 Ky. 422. Action of superintendent in suspending pupil for willful disobedience is proper exercise of authority. (Jan. 31, 1936.)

Cross v. Trustees, 129 Ky. 35. It was held that a pupil's conduct in refusing to take part in a dialogue in the annual commencement exercises constituted insubordination and was good cause for suspension. Trustees of a graded school district have no right to arbitrarily expel a pupil from a school which he has attended, nor to arbitrarily refuse him the privilege of attending the school in the future.

Board of Education v. Booth, 110 Ky. 807, 62 S. W. 872. Pupil may be expelled for violation of rules of school, and courts will not interfere with or control action of trustee unless it was arbirtray or malicious.

158.160 [4399-59] **Diseases; Epidemics; School May be Closed.**—If any family has an infectious or communicable disease, no member of the family shall attend any school until the superintendent of the district, upon the advice of the health officer of the county in which the school district is located, allows them to do so. During the prevalence in any district of dangerous epidemics, the board of education of the school district may order the school closed.

158.170 [4363-7] **Bible to be Read.**—The teacher in charge shall read or cause to be read a portion of the Bible daily in every classroom or session room of the common schools of the state in the presence of the pupils therein assembled, but no child shall be required to read the Bible against the wish of his parents or guardian.

Hacket v. Brooksville, Trustee, 120 Ky. 608. The Bible is not a sectarian book and the reading thereof without comment does not constitute sectarian instruction.

158.180 [4363-11a] **Books Criticizing School of Healing Prohibited.**—No person connected with the public school system shall use or cause to be used, read or taught in the public schools any textbook or printed matter of any kind that contains any statement that criticizes or condemns, or could be deemed discrediting, discriminating or harmful to, any legally constituted school or system of healing, science or profession in Kentucky.

158.190 [4363-11] **Sectarian, Infidel or Immoral Books Prohibited.**—No book or other publication of a sectarian, infidel or immoral character, or that reflects on any religious denomination, shall be used or distributed in any common school. No sectarian, infidel or immoral doctrine shall be taught in any common school.

158.200 [4363-7a] **Moral Instruction; Board of Education May Provide.**—The boards of education of independent and county school districts may provide for moral instruction of pupils subject to their jurisdiction, in the manner provided in KRS 158.210 to 158.260.

158.210 [4363-7b] **Survey of Religious Preferences May be Made.**—The board of education of each school district may authorize a complete survey of all the pupils attending the public schools within the district and ascertain those pupils who desire moral instruction and have the consent of parent or guardian for the instruction.

158.220 [4363-7c] **Time and Place of Moral Instruction.**—The boards of education shall fix one day each week when pupils who have expressed a desire for moral instruction may be excused for at least one hour to attend their respective places of worship or some other suitable place to receive moral instruction in accordance with the religious faith or preference of the pupils.

158.230 [4363-7d] **Arrangements with Persons in Charge.**—Each board of education may make such arrangements with the persons in charge of the moral instruction as the board deems necessary and advisable.

158.240 [4363-7e] **Credit for Moral Instruction.**—Pupils attending the classes for moral instruction at the time specified and for the period fixed shall be credited with the time spent as if they had been in actual attendance in school.

158.250 [4363-7f] **Pupils Not Taking Moral Instruction.**—Any pupil who fails to take advantage of the moral instruction shall

remain in school during the time when the instruction is being given, but shall not receive any educational advantage over children receiving the moral instruction.

158.260 [4363-7g] **Cost of Moral Instruction.**—The moral instruction shall be given without expense to any board of education beyond the cost of the original survey.

158.270 Instruction as to Nature and Effect of Alcoholic Liquor and Narcotics Required; Textbooks to include These Subjects.—(1) The nature of alcoholic liquor and of narcotics and their injurious effects on the human system shall be taught in each of the grades, four to ten inclusive, of the common schools. It shall be the duty of the superintendent and principal of every school and the president of every university, college or academy to have presented for a period of 30 minutes to the entire student body in assembly, at least on two occasions each term or semester by an appropriate program, the scientific, social and moral aspects of alcoholic beverages, stimulants and narcotics.

(2) The failure of any superintendent, principal or teacher to comply with the terms of this section shall be deemed a cause for the revocation of his contract of employment, and upon notice to the Board of Education employing such superintendent, principal or teacher that he has failed to do so it shall be the duty of said Board to conduct a hearing and if the charge be proved to dismiss or discharge said superintendent, principal or teacher.

(3) When text books on physiology and hygiene shall be hereafter adopted or approved for the schools, such books shall contain a substantial text, to be approved by the Superintendent of Public Instruction, devoted to the nature of alcoholic liquors and narcotics and their effect upon the human system. (1942, c. 50)

158.280 Instruction in Conservation; Selection of Books for.—Instruction in all phases of conservation and preservation shall be included in the curriculum of the public schools of Kentucky; and text books regarding the proper use and protection of forests, soils, water, minerals and wild life shall be prepared or selected by the State Text Book Commission for this purpose (1944, c. 157)

158.990 [4363-7; 4363-8; 4363-11a] **Penalties.**—(1) Any person who violates any of the provisions of subsection (2) or (3) of KRS 158.020 shall be fined one thousand dollars, and any person who

continues to violate such provisions after being convicted shall be fined one hundred dollars for each day the violation continues.

(2) Any person who violates any of the provisions of subsection (4) or (5) of KRS 158.020 shall be fined fifty dollars for each day the violation occurs.

(3) Any person who violates any of the provisions of KRS 158.180 shall be fined not less than fifty dollars nor more than five hundred dollars, or imprisoned in the county jail for not less than thirty days nor more than six months, or both.

(4) Failure of a teacher to conform to KRS 158.170 is cause for revocation of his certificate.

CHAPTER VI

COMPULSORY ATTENDANCE

159.010 Parent or custodian to send child to school; age limits for compulsory attendance
159.020 Transferring child from one district to another
159.030 Exemptions from compulsory attendance
159.040 Attendance at private and parochial schools
159.050 Attendance of blind or deaf children at special schools
159.060 Special schools for handicapped children
159.070 Attendance districts
159.080 Appointment, salary and tenure of attendance officers
159.090 Attendance officers for united districts
159.100 Qualifications of attendance officers
159.110 Expenses of attendance officers
159.120 Office quarters of attendance officers
159.130 Powers of attendance officers
159.140 Duties of attendance officers
159.150 Truancy; what constitutes
159.160 Teachers' reports to superintendent
159.170 Withdrawals and transfers; teachers to investigate and report
159.180 Parents responsible for children's violations
159.190 Parental or truant schools may be provided in certain districts
159.200 Location of parental or truant schools
159.210 Religious instruction in parental or truant schools
159.220 Probation; children placed on
159.230 Violation of probation; effect of
159.240 Continuing school census to be maintained
159.250 Nature of census
159.260 Report of census to Superintendent of Public Instruction
159.270 False report of census not to be made
159.990 Penalties

159.010 [4434-1; 4434-18] **Parent or Custodian to Send Child to School; Age Limits for Compulsory Attendance.**—Except as provided in KRS 159.030, each parent, guardian or other person residing in the state and having in custody or charge any child between the ages of seven and sixteen shall send the child to a regular public day school for the full term that the public school of the district in which the child resides is in session, or to the public school that the board of education of the district makes provision for the child to attend. A child's age is between seven and sixteen when the child has reached his seventh birthday and has not passed his sixteenth birthday. Any parent or guardian who elects to send a child six years of age to school shall keep the child in regular attendance. Every child actually resident in this state is subject to the laws relating to compulsory attendance, and neither he nor the person in charge of him shall be excused from the operation of those laws or the penalties under them on the ground that the child's residence is seasonable or that his parent is a resident of another state.

159.020 [4434-2] **Transfering Child from One District to Another.**—Any parent, guardian or other person having in custody or charge any child between the ages of seven and sixteen who removes the child from a school district during the school term shall enroll the child in a regular public day school in the district to which the child is removed, and the child shall attend school in the district to which he is removed for the full term provided by that district.

159.030 [4434-3] **Exemptions from Compulsory Attendance.**—(1) The board of education of the district in which the child resides shall exempt from the requirement of attendance upon a regular public day school every child of compulsory school age:

(a) Who is a graduate from an accredited or an approved four-year high school; or

(b) Who is enrolled and in regular attendance in a private or parochial regular day school approved by the State Board of Education; or

(c) Who holds a permit to work granted under KRS 339.020 and 339.030; or

(d) Whose physical or mental condition prevents or renders inadvisable attendance at school or application to study; or

(e) Who is deaf or blind to an extent that renders him incapable of receiving instruction in the regular elementary or secondary schools, but whose mental condition permits application to study.

(2) Any child who holds a work permit granted under KRS 339.020 and 339.030 shall be subject to compulsory attendance upon part-time classes as provided in KRS 339.020 and 339.030.

(3) Before granting an exemption under paragraph (d) of subsection (1) of this section the board of education shall require satisfactory evidence, in the form of a signed statement of a licensed physician or public health officer, that the condition of the child prevents or renders inadvisable attendance at school or application to study. On the basis of such evidence the board may exclude any such child from school.

Work permits, KRS 339.010 to 339.040, 339.060, 339.070.

Nichols, et al. v. Henry, 301 Ky. 434. The statute providing supplementary transportation for children attending school in compliance with compulsory school attendance laws, providing for payment of such transportation from general funds of county, making transportation available to children attending common, private, sectarian, or parochial schools, is tax legislation for a public purpose and is not violative of constitutional provision prohibiting special privilege or requiring tax levies for public purposes only. (November 27, 1945.)

159.040 [4434-3] **Attendance at Private and Parochial Schools.**—Attendance at private and parochial schools shall be kept by the authorities of such schools in a register provided by the State Board of Education, and such school authorities shall make attendance and scholarship reports in the same manner as is required by law or by regulation of the State Board of Education of public school officials. Such schools shall at all times be open to inspection by attendance officers and officers of the Department of Education.

Courses of instruction and term required of private and parochial schools, KRS 158.080.

159.050 [4434-3] **Attendance of Blind or Deaf Children at Special Schools.**—In school districts that operate schools for the education of children who are blind or deaf to an extent that renders them incapable of receiving instruction in the regular elementary or secondary schools, such children between the ages of seven and sixteen whose mental condition permits application to study shall be enrolled in and attend such schools regularly for the full term of the schools or until discharged by the board of education of the district. If no provision for the education of such children is made by the school district in which any such child resides, the Superintendent of Public Instruction, on recommendation of the State Attendance Officer, may cause the child to be enrolled in one of the state institutions for the education of such special groups.

Education of Deaf, Dumb and Blind, Ch. 167 KRS.
State Attendance Officer, KRS 156.140.

159.060 [4434.33] **Special Schools for Handicapped Children.**—Any district board of education may, subject to the approval of the State Board of Education, provide for the instruction of children of proper school age who, by reason of defective eyesight or hearing or because of physical or mental handicap, require special books or special instruction in order to profitably or safely attend the public schools in the district. Any district board of education may, subject to the approval and direction of the State Board of Education, select and furnish suitable books and equipment for use in such schools, elect qualified teachers, and provide services in the same manner as for other schools. Nothing in this section shall annul any law or regulation that may preclude from attendance upon the schools children afflicted with any communicable disease. Any board of education providing such special instruction may transport and or all of such children to and from school and pay for such transportation from its general funds.

Education of Deaf, Dumb and Blind, Ch. 167 KRS.

159.070 [4434-5; 4436-6] **Attendance Districts.**—Each school district shall constitute a separate attendance district unless two or more contiguous school districts, with the approval of the State Board of Education, unite to form one attendance district. Controversies arising in attendance districts relating to attendance matters shall be submitted to the State Board of Education for settlement, and in case an agreement suitable to all parties cannot be reached the State Board of Education may dissolve a united district. In case of dissolution, each school district involved may unite with other contiguous school districts in forming a united attendance district or may act as a separate attendance district.

Bernard v. Humble, 298 Ky. 74. School attendance officer is a "public officer" since office is created by laws for a fixed term, and appointee is required to take oath of office and is invested with certain portions of government to be exercised for public benefit. (May 9, 1944.)

159.080 [4434-6] **Appointment, Salary and Tenure of Attendance Officers.**—Each board of education shall, upon the nomination and recommendation of the superintendent, appoint and fix the salary of an attendance officer and such assistant attendance officers as are deemed necessary. An attendance officer may be appointed for a term of one, two, three or four years, to take office July 1. He shall be responsible to the superintendent of schools and may be removed for cause at any time by a vote of three members of the board. He shall take an oath of office. In the case of a vacancy in the office for an unexpired term, the appointment shall be made so the term will end on June 30.

State Attendance Officers, KRS 156.140.

Bernard v. Sims, et al., 279 Ky. 565. Board of education shall hire an attendance officer upon recommendation and nomination of superintendent unless it is shown that the person does not possess the qualifications prescribed by the statutes or other valid reasons. (June 13, 1939.)

159.090 [4434-6] **Attendance Officers for United Districts.**—When the boards of two or more contiguous school districts unite to form one attendance district there shall be appointed at least one attendance officer or assistant attendance officer for each eight thousand children or major fraction of that number in the combined school census of the districts. The superintendents of the united districts shall jointly make the nominations and recommendations relating to attendance officers to the boards of education meeting jointly, and the majority vote of each board shall determine all questions. The salary of attendance officers in united districts shall be borne by the employing boards in the proportion the

school census of each school district bears to the total school census of the united district.

Bernard v. Humble, 298 Ky. 74. School attendance officer is a "public officer" since office is created by laws for a fixed term, and appointee is required to take oath of office and is invested with certain portions of government to be exercised for public benefit. (May 9, 1944.)

159.100 [4434-6] **Qualifications of Attendance Officers.**—Each attendance officer and assistant attendance officer shall be twenty-five years of age and shall throughout his tenure of service hold a valid certificate issued in accordance with the rules and regulations of the State Board of Education, except that attendance officers and assistant attendance officers in office on July 1, 1934, may be reappointed to succeed themselves.

159.110 [4434-6] **Expenses of Attendance Officers.**—Attendance officers and assistant attendance officers shall be allowed their necessary and authorized expenses incurred in the performance of their duties. Each board shall bear the expense of its attendance officer and assistant attendance officers incurred in its district.

Bernard v. Humble, 298 Ky. 74. School attendance officer is a "public officer" since office is created by laws for a fixed term, and appointee is required to take oath of office and is invested with certain portions of government to be exercised for public benefit. (May 9, 1944.)

159.120 [4434-7] **Office Quarters of Attendance Officers.**—The office of the superintendent of schools shall be the office of the attendance officer and suitable space shall be provided therein or adjacent thereto for him.

159.130 [4434-12; 4434-13] **Powers of Attendance Officers.**—The attendance officer and assistant attendance officers shall be vested with the powers of peace officers, provided, however, that they shall not have the authority to serve warrants. They may investigate in their district any case of nonattendance at school of any child of compulsory school age or suspected of being of that age. They may take such action in accordance with law as the superintendent of schools directs or as the attendance officer deems proper in the absence of specific directions. They may, under the direction of the superintendent of schools and the board of education, the State Attendance Officer, or the State Board of Education, institute proceedings against any person violating any of the provisions of the laws relating to compulsory attendance and the employment of children. They may enter all places where children are employed and do whatever is necessary to enforce the laws relating to compulsory attendance and the employment of children of compulsory school age. No person shall refuse to permit or in any way interfere

with the entrance therein of an attendance officer or in any way interfere with any investigation therein. (1946, c. 30)

Child Labor, Ch. 339, KRS.

159.140 [4434-6; 4434-8; 4434-9; 4434-10] **Duties of Attendance Officers.**—The attendance officer shall:

(1) Devote his entire time to the duties of his office;

(2) Enforce the compulsory attendance and census laws in the attendance district which he serves;

(3) Acquaint the school with the home conditions of the child, and the home with the work and advantages of the school;

(4) Ascertain the causes of irregular attendance and truancy, and seek the elimination of these causes;

(5) Secure the enrollment in school of all children who should be enrolled and keep all enrolled children in reasonably regular attendance;

(6) Visit the homes of children who are absent from school or who are reported to be in need of books, clothing or parental care;

(7) Ascertain and report to the superintendent of schools in the district in which the child resides the number and cost of books and school supplies needed by any child whose parent, guardian or custodian does not have sufficient income to furnish the child with the necessary books and school supplies;

(8) Keep the records and make the reports that are required by law, by regulation of the State Board of Education, by the State Attendance Officer, and by his superintendent and board of education.

(9) Perform any other duties assigned him by the State Board of Education or by his district board of education.

Board of education to furnish books and supplies for indigent children, KRS 160.330.

Bernard v. Humble, 298 Ky. 74. School attendance officer is a "public officer" since office is created by laws for a fixed term, and appointee is required to take oath of office and is invested with certain portions of government to be exercised for public benefit. (May 9, 1944.)

159.150 [4434-14] **Truancy; What Constitutes.**—Any child who has been absent from school without valid excuse for more than three days, or tardy on more than three days, is a truant. Any child who has been reported as a truant more than three times is an habitual truant. Being absent for less than half of a school day shall be regarded as being tardy.

159.160 [4434-15] **Teachers' Reports to Superintendent.**—The principal or teacher in charge of any public, private or parochial school shall report to the superintendent of schools of the district in which the school is situated the names, ages and places of residence of all pupils in attendance at his school together with any other facts that the superintendent may require to facilitate carrying out the laws relating to compulsory attendance and employment of children. The reports shall be made within the first two weeks of the beginning of school in each school year.

Hunter, et al. v. Board of Education of Floyd County, 265 Ky. 162. Court not authorized to substitute its judgment for that of board and the variety of evidence and facts it considered. Information furnished does not show that the board of education acted arbitrarily or without creditable, competent and relevant evidence. Held that board acted within its discretion in removing him from office. (June 23, 1936.)

159.170 [4434-16] **Withdrawals and Transfers; Teachers to Investigate and Report.**—Whenever any child of compulsory school age withdraws from school, the teacher of the child shall ascertain the reason. The fact of the withdrawal and the reason for it shall be immediately transmitted by the teacher to the superintendent of schools of the district in which the school is located. If the child has withdrawn because of change of residence, the next residence shall be ascertained and included in the report. The superintendent shall thereupon forward a card showing the essential facts regarding the child and stating the place of his new residence to the superintendent of schools of the district to which the child has moved. The State Board of Education shall prescribe the forms to be used in the operation of this section.

159.180 [4434-17] **Parents Responsible for Children's Violations.**—Every parent, guardian or custodian of a child residing in any school district in this state is legally responsible for any violation of KRS 159.010 to 159.170 or KRS 339.040 by the child. Before any proceedings are instituted against the parent, guardian or custodian for violation of KRS 159.010 to 159.170 or KRS 339.040 a written notice of the violation shall be served on the person by the attendance officer, and one day shall be given for the termination of the violation. After such notice, if the violation is continued or if the provisions of KRS 159.010 to 159.170 or KRS 339.040 are again violated during the school term by the child, no further notice shall be necessary and the parent or guardian shall be punishable as provided in KRS 159.990. A notice by registered

mail or by personal service by the attendance officer shall be a legal notice.

Work permits, KRS 339.010 to 339.040, 339.060, 339.070.

159.190 [4434-32] **Parental or Truant Schools May be Provided in Certain Districts.**—The board of education of any independent school district embracing a city of the first or second class may equip, maintain, conduct, and adopt rules concerning parental or truant schools for the purpose of affording a place where children of compulsory school age who come within the provisions of this chapter and of the statutes concerning neglected, dependent and delinquent children may be enrolled for the purpose of discipline and instruction.

159.200 [4434-32] **Location of Parental or Truant Schools.**—A parental or truant school may be located either within or without the corporate limits of the city, but shall not be located outside the county in which the city is located or near any penal institution.

159.210 [4434-32] **Religious Instruction in Parental or Truant Schools.**—No religious instruction shall be given in a parental or truant school except as is allowed by law to be given in public schools, but the board of education shall make suitable regulations so that inmates shall receive religious training in accordance with the belief of their parents or guardians, either by allowing the religious services to be held in the institution or by arranging for the attendance of public service elsewhere.

Religious instruction in common schools, KRS 158.170, 158.200 to 158.260, 158.990.

159.220 [4434-32] **Probation; Children Placed On.**—Any child committed to a parental or truant school upon an order duly entered by the county court may be allowed to return home and remain there upon probation, subject to the friendly visitation and supervision of a probation officer of the county court. If the child, in the opinion of the county court, violates the terms and conditions of probation, he shall be returned to the school. No child shall be released upon probation in less than four weeks from the time of his commitment, nor shall a child be thereafter released upon probation unless the court is satisfied that the child will attend regularly some public or private school. If any child so released upon probation is regular in his attendance in school, and his conduct as a pupil is satisfactory for a period of one year from the date upon which he was released upon probation, he shall be

finally discharged from the parental or truant school, and shall not be recommitted thereto, except in a subsequent proceeding undertaken according to the provisions of this chapter and of the statutes concerning neglected, dependent and delinquent children.

159.230 [4434-32] **Violation of Probation; Effect of.**—Any child released from a parental or truant school upon probation as provided in KRS 159.220 who violates the conditions of his probation at any time within one year thereafter shall, upon the order of the county court, be returned to the parental or truant school and shall not again be released upon probation within a period of three months from the date of reentering. If such child violates the conditions of a second release upon probation, he shall be recommitted to the school and shall not be released therefrom on probation until he has remained in the school one year.

159.240 [4434-25] **Continuing School Census to be Maintained.**—Each board of education shall maintain a permanent and continuing school census.

Department of Education to make rules for operation of census, KRS 156.080.
State school fund to be distributed on basis of school census, KRS 157.040.

159.250 [4434-25; 4434-26] **Nature of Census.**—The attendance officer of each school district, working under the direction of the superintendent of schools, shall institute and maintain a complete, accurate, permanent and continuous census of all children between the ages of six and eighteen that reside in the school district. A child's age is between six and eighteen when the child has reached his sixth birthday and has not passed his eighteenth birthday. The school census shall specify the name, date of birth and sex of each child; the name, nationality, occupation and post office address of each parent, guardian or custodian of the child; the school district in which the child resides; and the school to which the child belongs. The school shall be described by number and name. The census shall contain any other data required by the Superintendent of Public Instruction. Each board of education shall furnish its attendance officer with such assistance as it deems necessary for the institution and maintenance of the census.

159.260 [4434-27] **Report of Census to Superintendent of Public Instruction.**—The attendance officer of each school district shall, on or before June 1 each year, prepare a report showing the number of children residing in the school district or districts that he serves who will, on July 1 following, be between the ages of six

and eighteen years. The report shall list the children according to the schools to which they belong in each school district. The report shall be made on forms furnished by the State Board of Education and shall contain any other information required by the Superintendent of Public Instruction. It shall be sworn to before a notary public as being a correct statement as shown by the census on file in the office of the attendance officer. The original and a duplicate copy of the report shall be filed with the district board of education. The board shall mail the original to the Superintendent of Public Instruction and retain the copy in its office.

Louisville School Board v. Superintendent, 102 Ky. 394, 43 S. W. 718. State superintendent may question in a judicial proceeding the accuracy of reports as to the number of children.

159.270 [4434-28] **False Report of Census Not to be Made.**—No attendance officer or other person shall willfully or fraudulently report a larger number of children of school age in any district than the actual number, or otherwise make a false report of the census to the Superintendent of Public Instruction.

159.990 [4434-13; 4434-20; 4434-21; 4434-22; 4434-23; 4434-24; 4434-28] **Penalties.**—(1) Any parent, guardian or custodian who willfully fails to comply with the requirements of KRS 159.010 to 159.170 shall be fined not more than ten dollars for the first offense, and not more than twenty dollars for each subsequent offense. The court trying the case may suspend enforcement of the fine if the child is immediately placed in attendance at a school, and may finally remit the fine if the attendance continues regularly for the full school term. School attendance may be proved by an attested certificate of the principal or teacher in charge of the school.

(2) Any principal, teacher, attendance officer, assistant attendance officer or other school officer who willfully fails to comply with the provisions of KRS 159.010 to 159.260, or of KRS 160.330 shall be fined not less than twenty-five dollars nor more than fifty dollars. Upon conviction under this subsection an attendance officer or assistant attendance officer shall be removed from office and have his certificate revoked, and a principal, teacher or other school officer may have his certificate revoked.

(3) Any person, other than those persons mentioned in subsections (1) and (2) of this section, who fails to comply with any of the provisions of this chapter relating to compulsory attendance, or who violates any of the provisions of KRS 159.130, shall be fined not less than fifty dollars nor more than two hundred

dollars, or imprisoned in the county jail for not more than sixty days, or both.

(4) Any person who violates any of the provisions of KRS 159.270 shall be liable to a fine of not less than fifty dollars and shall be liable to the punishment prescribed by law for the crime of false swearing. If he is an officer he shall be removed from office, and if he is an attendance officer his certificate shall be revoked.

(5) All fines imposed and all sums required to be paid as penalties under this section shall, after payment of the costs of prosecution and recovery thereof, be paid into the treasury of the district board of education and become a part of the school fund of the district.

CHAPTER VII
SCHOOL DISTRICTS

160.010 County school district; what constitutes
160.020 Independent school district; what constitutes
160.030 Temporary independent districts
160.040 Merger of districts
160.045 Territory in city of fifth or sixth class, transfer to district embracing greater part of city
160.050 Annexation of subdistrict by independent district
160.060 Annexation of part of independent district by county district
160.065 Liability for indebtedness in case of annexation
160.070 Subdistricts; county board of education may change; exceptions; boundaries of districts
160.080 Subdistricts in two or more counties
160.090 Trustee of subdistrict; qualifications; term
160.100 Election of subdistrict trustee; notice of candidacy; qualifications of voters; ballots
160.110 Time, place and method of conducting election
160.120 Duties of subdistrict trustee generally
160.130 Nomination of teachers in subdistricts
160.140 Vacancy in office of subdistrict trustee; how filled
160.160 Boards of education; nature; corporate powers
160.170 Oath of board members
160.180 Qualifications of board members; when not to vote
160.190 Vacancies; how filled
160.200 Time of election of board members; term
160.210 Manner of election of board members
160.220 Secret ballots; nominating petitions
160.230 Form of ballot; order in which names appear
160.240 General election laws apply; procedure; expense
160.250 Politics of candidate not to be indicated
160.260 Number of candidates to be voted for
160.270 Meetings; regular and special; quorum; record of proceedings
160.280 Per diem and expenses allowed county board members
160.290 General powers and duties of board
160.300 Investigations by board; power to summon witnesses
160.310 Board to provide for insurance for school buses
160.320 Passways to school for pupils; provision for
160.330 Free textbooks; boards may furnish
160.340 Reports by boards to State Board of Education; other reports
160.350 Superintendent of schools; appointment; term; salary; vacancy; qualifications; removal
160.360 Assistant superintendents
160.370 Executive agent of board; superintendent is; duties as
160.380 School employes; superintendent to recommend; qualifications; removal; term
160.390 Superintendent may appoint clerks; general duties as to condition of schools; reports
160.400 Outgoing superintendent; duties of
160.410 Expenses of superintendent and employes
160.420 Interest in teacher's claim prohibited
160.430 Business directors in cities of the first two classes
160.440 Secretary of board of education
160.450 Fiscal year of school districts
160.460 School taxes; when and by whom levied; property subject to levy
160.470 School budget
160.475 Ad valorem tax for school purposes; minimum and maximum rates; poll tax; subdistrict taxes abolished

160.476 School building fund; tax for; other resources; investment; expenditures; audit
160.500 Collector of school taxes; allowances to; special collector; tax bills
160.510 Taxes paid to depository; reports of tax collector
160.520 Penalties for tax delinquency; general laws apply
160.530 Use of school money
160.540 Power to borrow money in anticipation of taxes
160.550 Budget not to be exceeded
160.560 Treasurer of board of education; appointment; bond; duties
160.570 Depository of board; bond; duties
160.580 Gift, grant or devise to school board
160.590 Special funds; disposition of
160.600 Accepting bribe for employment of school employe
160.610 Fort Knox Independent School District
160.620 Independent school district at Louisville and Jefferson County Children's Home
160.990 Penalties

160.010 [4399-2] **County School District; What Constitutes.**—Each county in this state constitutes a county school district, except that in counties in which there are independent school districts the county school district consists of the remainder of the county outside of the boundaries of the independent school districts.

City of Covington v. State Tax Commission, 231 Ky. 606. Court held, "That the northern boundary of the city of Covington under the descriptions found in the controlling instruments bearing upon that question is the Ohio River, and that there is nothing contained in such descriptions limiting such boundary to low water mark on the south shore of that stream, that in such case the law construes the boundary as extending to the center or thread of the stream, and which rule applies to a municipal boundary on such streams the same as to boundaries of a riparian owner on a water course." (Nov. 22, 1929.)

160.020 [4399-3] **Independent School District; What Constitutes.**—All school districts embracing cities of the first five classes together with the territory within their limits, including any territory that has been added for school purposes outside of the city limits, and all independent graded common school districts having a school census enumeration of two hundred or more white children, constitute independent school districts, except such of them as have merged with a county school district since June 14, 1934. No independent district other than a city of the first five classes shall continue to operate when its school census enumeration of white children falls below two hundred pupils unless it appears to the State Board of Education that the district can maintain a more efficient program of school service by operating as an independent district.

Board of Education of City of Corbin v. City of Corbin, et al., 301 Ky. 686. Section 179 Constitution prohibits city from giving to the Board of Education of that city certain of its income to be used for school purposes. For example: Income from municipally owned water and light plants. (February 26, 1946.)

Dean, et al. v Board of Education of Harrodsburg, Board of Education of Harrodsburg v. Shirley, et al., 247 Ky. 553. Statute respecting extension of boundaries of graded common school district held inapplicable to graded school district in fourth class city. Statute providing that cities of fourth class including

any territory theretofore added for school purposes outside of limits of city, should constitute school district, referred only to territory legally added to district. County superintendent could not extend boundaries of graded school district in fourth class cities by describing district as containing territory contiguous to city. (February 3, 1933.)

City of Covington v. State Tax Commission, 231 Ky. 606. Court held, "That the northern boundary of the city of Covington under the description found in the controlling instruments bearing upon that question is the Ohio River, and that there is nothing contained in such descriptions limiting such boundary to low water mark on the south shore of that stream, that in such case the law construes the boundary as extending to the center or thread of the stream, and which rule applies to a municipal boundary on such streams the same as to boundaries of a riparian owner on a watercourse. (Nov. 22, 1929.)

Nelson v. Board of Education of the City of Williamsburg, et al., 215 Ky. 40. Where a fourth class city district, which voted bonds with which to build a schoolhouse, was abolished, and a graded school district succeeded it, the board of trustees of the graded school district has authority to sell these bonds and expend the proceeds for building a schoolhouse, especially where boundaries of the new school district are the same as the boundaries of the abolished district. (June 8, 1926.)

160.030 [4399-3] **Temporary Independent District.**—The State Board of Education may permit any independent district, other than a city of the first five classes, with a census enumeration of white children below two hundred to operate as a temporary independent school district for one-year periods beginning with July 1, 1938, if it appears to the State Board of Education that the district can maintain a more efficient program of school service by operating as a temporary independent district. The decision of the State Board of Education shall be final. At the end of each one-year period the State Board of Education may permit a temporary independent district to operate for an additional one-year period on the condition that inspection made by the State Board of Education shows that it is operating a school in accordance with the school law and the standards, rules and regulations set up by the State Board of Education. The State Board of Education may by order make any temporary independent school district a part of the county district whenever it is not complying with the school law and the standards, rules and regulations of the State Board of Education, and after it has been given a reasonable time, fixed by the State Board of Education, within which to so comply. Each application of an independent district to operate as a temporary independent district for a one-year period shall be filed with the State Board of Education not later than May 1.

Bd. of Trustees of Bromley Ind. Sch. Dist., No. 38 v. State Bd. of Edu., 269 Ky. 253, 106 S. W. (2d) 985. State Board may authorize an independent graded school district which has less than 250 pupils to run temporarily as such district for a period of one year or any number of years not exceeding four. Its action in consolidating it with the county district will not be disturbed unless it be shown that it acted arbitrarily and unreasonably. It was not shown that it had so acted in this case. State Board did not abuse discretion in placing into county district independent district of Bromley. State Board may grant permit to operate as independent district for period from one to four years. (June 15, 1937.)

160.040 [4399-4] **Merger of Districts.**—Boards of education of any two or more contiguous school districts may by concurrent action merge their districts into one. In case of a merger the members of the boards of education of the merged districts may serve out the terms for which they were elected. The resulting district shall take over all the assets and legal liabilities of the districts joining in the merger. Tax levies authorized for the payment of interest and the retirement of bonds or to create sinking funds for such purposes shall continue to be levied and collected over the same area by or for the new board in accordance with the laws under which the levies were originally made until all bonded obligations of the old district have been retired.

Martin v. Board of Education of Bath County, et al., 284 Ky. 818. Where superintendent's contract for an independent district provided that in event of merger with county system independent district board's contract ceased county board had no obligation to employ superintendent of independent district. (Dec. 20, 1940.)

Piggott v. Kasey, et al., 271 Ky. 651. Where bonds for school purposes were issued by city and later school merged with county district the bonds were valid and county board assumed all obligation of the independent district board. Bonds may be sold to private persons. (March 17, 1938.)

Webster County Board of Education v. Hocket, et al., 267 Ky. 498. Where independent districts were merged with county district prior to repeal of statutes authorizing county board to assume liabilities of districts of such merger, county board authorized to issue refunding bonds and not required to make levy on property of these districts to pay off such indebtedness. (March 2, 1937.)

160.045 Territory in City of Fifth or Sixth Class, Transfer to District Embracing Greater Part of City.—(1) Whenever any territory in any municipality of the fifth or sixth class or any territory which may become incorporated in any such municipality, is located in a county school district, the owners of real property in such territory are given the right to demand of the board of education of the county school district in which their property is located that said property should be placed in and become a part of the school district in which the greater part of said municipality is located and embraced; whether said school district be a county or independent school district.

(2) If seventy-five percent of the owners of real property located in such territory in a county school district shall present a written petition to the board of education of the school district in which their property is located demanding of said board of education that their property be placed in another school district, the board of education of the school district in which said property is located shall proceed at once to place said property in the school district as demanded by said petitioners.

(3) The board of education of the recipient school district shall first give their consent and approval to the demand made by the petitioners and by giving said consent and approval will indicate thereby that they favor and request the territory to be placed in and annexed to said recipient school district; said approval and consent shall be made by the countersigning of the petition by the chairman of the board of education of the recipient school district or by a majority of the board of education of said recipient school district signing said petition.

(4) Should the board of education of the school district of which the demand is made for the transfer of certain property as set out in subsection (1) of this section, refuse to comply with the request presented by the petition as set out in subsections (2) and (3) of this section, the property owners who have signed said petition or one or more of them on behalf of all of said property owners may resort to the circuit court of the county in which said property is located and may proceed by mandamus or other procedure.

(5) The purpose of this section is to enable all property located within any municipally incorporated territory to be placed in one school district as such procedure tends to promote school and civic spirit. (1946, c. 140)

160.050 [4399-4b] **Annexation of Subdistrict by Independent District.**—Any independent school district may annex any part of a county district lying adjacent to the independent district. When a part of a county district is to be annexed to an independent district, the board of education of the independent district shall secure the approval of the county board of education and of the Superintendent of Public Instruction. In giving approval the Superintendent of Public Instruction shall consider the ratio of the per census pupil wealth of the territory proposed to be added to the independent district to that of the average per census pupil wealth of the county district as a whole and the effect of the proposed territorial loss of the county district on the educational program of the county district. When such approval has been secured in writing, the board of education of the independent district shall submit to the legal voters of the territory proposed to be annexed the question of whether or not the territory shall become a part of the independent district. If the proposal is adopted by a majority

vote of the legal voters residing in the territory to be annexed, the territory shall become a part of the independent district.

Title to school property in transferred territory, KRS 162.020.

160.060 [4399-4b] **Annexation of Part of Independent District by County District.**—Any county district may annex a part of an independent district lying within, partly within, or adjacent to the county district. When a part of an independent district is to be annexed to a county district, the board of education of the county district shall secure the approval of the board of education of the independent district and of the Superintendent of Public Instruction. In giving approval the Superintendent of Public Instruction shall consider the ratio of the per census pupil wealth of the territory proposed to be added to the county district to that of the average per census pupil wealth of the independent district and the effect of the proposed territorial loss of the independent district on the educational program of the independent district. When such approval has been secured in writing, the board of education of the county district shall submit to the legal voters of the territory proposed to be annexed the question of whether or not the territory shall become a part of the county district. If the proposal is adopted by a majority of the legal voters residing in the territory to be annexed, the territory shall become a part of the county district.

Title to school property in transferred territory, KRS 162.020.

160.065 Liability for Indebtedness in Case of Annexation.—When any property assessable for school purposes in one school district is annexed by or transferred to another school district, the recipient district shall assume a part of the indebtedness, if any, of the other school district incurred for school buildings and grounds in the proportion the assessed valuation of property taxable for school purposes transferred bears to the total assessed valuation of property taxable for school purposes in the district losing the territory. (1942, c. 197.)

160.070 [4399-6; 4399-14] **Subdistricts; County Board of Education May Change; Exceptions; Boundaries of Districts.**—(1) The boundary lines of subdistricts of county school districts existing on June 14, 1934, shall not be changed except as provided in this section. Any county board of education may change the boundaries of school subdistricts of the county school system and, when necessary, establish new subdistricts, unite subdistricts or

parts of subdistricts, discontinue subdistricts, or transfer a child to other subdistricts. No subdistrict shall exist that has less than fifty white census pupils residing in it, unless the State Board of Education, upon application of a county board of education, authorizes the maintenance of the subdistrict as an emergency subdistrict from year to year.

(2) Except upon approval of the State Board of Education, the boundary of any independent school district that may become a part of a county school district shall not be reduced nor shall the district be abandoned as a subdistrict.

(3) The boundary of any subdistrict having a bonded indebtedness shall not be extended except upon a favorable vote of two-thirds of the legal voters in the territory proposed to be added to the subdistrict, and all subdistrict tax levies that have been authorized may continue to be collected for the benefit of the subdistrict for which they were levied until the expiration of the time for which the levy was made. The boundary of any subdistrict that levies a tax for purposes other than for bonds may be changed by the county board of education upon the request of a majority of the voters within the territory proposed to be added to the subdistrict that levies the tax.

(4) The board of education of each school district shall keep recorded in its office a complete description of the boundary of the district and of all subdistricts of the district, and of any changes of such boundaries. The record of boundaries shall be accessible to any teacher, attendance officer or other employe of the board and to officers of the Department of Education.

Alford, et al. v. Board of Education of Campbell County, et al., 298 Ky. 803. Where a school had been closed for purposes of economy and children had been transferred to another school, but the evidence conclusively showed that a bridge and its approaches on route to such school were extremely dangerous and that a slight mishap at the place would result in precipitating school bus over an embankment, public policy demanded that children should not be subjected to such hazard or required to attend such school until the hazard had been eliminated. (December 12, 1944.)

Smith, et al. v. Withers, et al., 270 Ky. 568. County board of education may discontinue subdistricts and court will not interefer with action except in case of abuse of authority. (November 9, 1937.)

Simpson County Board of Education, et al. v. Strickler, 268 Ky. 72. Subdistrict was not abolished. It was merely enlarged and the subdistrict trustee had authority to recommend the teachers. (March 26, 1937.)

Bell County Board of Education, et al. v. Wilson, et al., 263 Ky. 556. County board of education may exercise reasonable though not arbitrary discretion in consolidating districts. This case held abuse of discretion. (March 27, 1936.)

County Board of Education of Bath County, Ky., et al. v. Goodpaster, 260 Ky. 198. County board of education has authority to discontinue all subdistricts provided it can show necessity therefor and if the results would be reasonably useful, convenient, and proper. The board has discretion to exercise this authority. The constitutionality of the new school code is determined by this case. The constitutionality of the new school code was referred to by the court in the case of County Board of Education of Montgomery County, et al., on petition ex Parte, 260 Ky. 246. (June 18, 1935.)

Audas, et al. v. Logan County Board of Education, 246 Ky. 534. County board of education may consolidate schools in two ways: (1) Action of county board, (2) vote of the people. Whether consolidation is necessary rests within sound discretion, of county board. County board of education, after suit was commenced, could amend original order consolidating subdistricts by making it more definite. (December 16, 1932.)

Whalen, et al. v. County Board of Education of Harrison County, 239 Ky. 341. Court cannot interfere with county board's exercise of discretion in consolidating subdistrict unless abused. Whether consolidation is necessary rested within county board's discretion. (May 29, 1931.)

Brown, et al. v. Bailey, et al., 238 Ky. 287. Whether transfer of pupils from subdistrict to public school of another subdistrict is "desirable" is matter for determination by county board of education. (March 27, 1931.)

City of Covington v. State Tax Commission, 231 Ky. 606. Court held, "That the northern boundary of the city of Covington under the descriptions found in the controlling instruments bearing upon that question is the Ohio River, and that there is nothing contained in such descriptions limiting such boundary to low water mark on the south shore of that stream, that in such case the law construes the boundary as extending to the center or thread of the stream, and which rule applies to a municipal boundary on such streams the same as to boundaries of a riparian owner on a water course." (November 22, 1929.)

Holton, Etc. v. Board, Etc., 176 Ky. 578. The county board of education is authorized to create a consolidated school district out of parts of subdistricts, as well as out of entire subdistricts.

Laurel County Board of Education, et al. v. Bowling, 267 Ky. 763. When boundary of a subdistrict includes the owner of farm, it also includes farm and those living on it, in absence of words of exclusion. (March 16, 1937.)

160.080 [4399-15] **Subdistricts in Two or More Counties.**—(1) With the concurrence of the county boards of education, the county superintendents of two or more adjoining counties, where the division line intersects a neighborhood whose convenience requires it, may lay off a subdistrict composed of parts of each of such counties. The selection and payment of teachers and control of such subdistricts shall be in the county board of the county in which the school building is located, but the county board of the other contracting county or counties shall pay such proportion of the total expense of conducting the school as is mutually satisfactory and stated in a written contract, which shall also state definitely the boundaries of the subdistrict. The contract shall be entered in the minutes of each board and duplicate copies signed by the chairman and secretary of each board shall be filed in the office of the county clerk of each of the contracting counties. The school census of such a subdistrict shall list the children according to the counties of their residence and shall show the total number of school age in the entire subdistrict and the total number in the subdistrict residing in each of the respective counties. Copies of the census shall be filed with the superintendent of each district represented.

(2) In case an independent district is reverted to the county and is composed of parts of two counties, the school shall be operated as provided by law for subdistricts in parts of two counties. The board of education of the county in which the building is located shall have control of the school, and the board of educa-

tion of each county concerned shall pay for operation of the school such amount of the total cost as the number of census pupil children in each district bears to the whole number in the school census. In case the reverted independent district has bonded indebtedness, the tax for bond purposes shall be levied by the fiscal courts of the respective counties, collected by the tax collectors of the respective counties, and turned over to the treasurer of the board of education of the county in which the building is located for the purpose of retiring the bonds.

160.090 [4399-7; 4399-8; 4399-10] **Trustee of Subdistrict; Qualifications; Term.**—Each subdistrict shall elect one subdistrict trustee who shall serve for a term of four years from the third Saturday in July next succeeding his election and until his successor is elected or appointed and qualified, unless sooner removed for cause. Each candidate for the office of subdistrict trustee shall be at least twenty-five years of age and shall have resided in the subdistrict at least six months prior to the date of election. A subdistrict trustee may succeed himself. Any subdistrict trustee who is not an actual resident of the subdistrict for a period of sixty days shall forfeit his office.

Penny v. McRoberts, 163 Ky. 313, 173 S. W. 786. A person is not authorized to vote in the common school district in which he has resided for sixty days before the election, unless he has resided in the county for at least six months preceding the election, and in the state one year preceding the election.

160.100 [4399-8] **Election of Subdistrict Trustee; Notice of Candidacy; Qualifications of Voters; Ballots.**—(1) Each candidate for the office of subdistrict trustee shall make known his intention of becoming a candidate for that office by giving written notice to the superintendent of schools of his county district, not less than fifteen nor more than sixty days prior to the date of election.

(2) Each legal voter of the subdistrict is eligible to vote in the election of subdistrict trustee, if he has resided in the subdistrict for at least sixty days prior to the date of the election.

(3) Elections for subdistrict trustees shall be by secret ballot. The board of education of the county school district shall furnish separate printed ballots in a number at least ten percent in excess of the estimated number of legal voters in the subdistrict. The name of each qualified candidate for subdistrict trustee shall be printed on the ballots for the subdistrict. The names shall be printed in the order in which the written notifications were filed with the county superintendent. As many blank spaces shall be

left on each ballot as there are subdistrict trustees to be elected. There shall also be blank spaces provided for the signatures of the judge and the clerk and no ballot shall be valid unless it bears the name of either the judge or the clerk of the election.

School elections to be regulated by General Assembly, Const. 155.

Bates, et al. v. Dixon, et al., 250 Ky. 479. Evidence in school election contest sustained finding that voter owning no property in election subdistrict, and alleged to be only temporarily absent from district, was not legal voter. Evidence sustained finding that three specified voters did not live in election subdistrict and hence were not legal voters in school election. Evidence in school election contest failed to establish that voter not permanently present within district had made his home with his uncle living within election subdistrict so as to become legal voter. Contestant declared receiving highest number of votes cast. (October 3, 1933.)

Harris v. Caudill, 222 Ky. 162. Contest of election for school trustee must be filed within ten days after final action of Board of Canvassers under Kentucky Statutes, section 1596a-12 (122.070, 122,080, 122.090 and 122.100 KRS), which under present law is county board of education. (December 2, 1927.)

160.110 [4399-8] **Time, Place and Method of Conducting Election.**—Subdistrict trustee elections shall be held between 8 a.m. and 4 p.m. on the second Saturday of July every four years, beginning with 1934. The elections shall be held at such place or places in the subdistrict as the board of education of the county directs. The election shall be conducted by at least three qualified voters of the subdistrict, appointed by the county board of education. One of the election officers shall serve as judge, one as sheriff, and one as clerk. The county board of education may appoint more than one clerk to serve at the elections. The election officers shall serve without pay, but one officer of each subdistrict, or other person or persons designated by the county board of education, is entitled to actual expenses incurred in delivering ballots and ballot boxes to the voting place and returning them to the office of the board of education. The county board of education shall provide ballot boxes with locks and shall make other necessary arrangements for conducting the elections. The expenses of the election shall be paid out of the county school fund. The county board of education shall provide for the safekeeping of the ballots and ballot boxes. The counting of ballots shall start not later than 10 a. m. on the next week day following the election and shall proceed by subdistricts until the count is completed. Any candidate in the election may be present in person or by a representative during the counting of the ballots in his subdistrict. As soon as the counting is finished in any subdistrict the tabulators shall announce, at the door of the counting room, the results for that subdistrict and shall certify the results to the county board of education, whereupon the county board of edu-

cation shall issue a certificate of election to the candidate receiving the greatest number of votes.

School elections to be regulated by General Assembly, Const. 155.

160.120 [4399-11] **Duties of Subdistrict Trustee Generally.**—Each subdistrict trustee shall exercise general control over the school property of the subdistrict under the general supervision of the county board of education. Each shall advise freely with the superintendent of the county district on all matters pertaining to the general welfare of the school or schools in his subdistrict.

160.130 [4399-9] **Nomination of Teachers in Subdistricts.**—(1) The subdistrict trustee shall nominate a competent and qualified teacher for each teaching position in the schools in his subdistrict in which only the first eight grades are taught. No subdistrict trustee shall nominate any person related to him as father, mother, brother, sister, husband, wife, son, daughter, nephew, niece, aunt, uncle, son-in-law, daughter-in-law or first cousin. The board of education of the county school district shall elect to each teaching position the person nominated by the subdistrict trustee for that position, unless it rejects the nomination for cause. All rejections shall be stated in writing. In the event of the rejection of a person nominated, the subdistrict trustee shall nominate another person for the position and the board of education may reject that nomination for cause.

(2) The nomination of teachers shall be made in writing between February 1 and April 1 next preceding the beginning of the school year. If the subdistrict trustee does not recommend a teacher within that time, the county board of education shall elect a teacher upon the recommendation of the county superintendent.

(3) After a written recommendation has been filed with the county board of education, the subdistrict trustee may not withdraw the recommendation except for legal cause or by permission of the county board of education. In case the subdistrict trustee withdraws his recommendation for cause or by permission of the county board of education, he shall make another recommendation on or before the next regular meeting of the board.

Hall, Superintendent of Schools of Floyd County, et al. v. Cooley, et al., 277 Ky. 429. Where teacher recommended by subdistrict trustee was not employed because of unprofessional conduct and subdistricts had been discontinued before nomination was rejected county superintendent had authority to recommend teacher. (March 17, 1939.)

Simpson County Board of Education, et al. v. Strickler, 268 Ky. 72. Subdistrict was not abolished. It was merely enlarged and the subdistrict trustee had authority to recommend the teachers. (March 26, 1937.)

Bowling, et al. v. Combs, et al., 266 Ky. 56. County superintendent is largely a ministerial officer and as such it is his duty to accept and submit to the county

board of education all applications for teaching positions if made within the prescribed time. (November 6, 1936.)

Hamilton v. Board of Education of Pike County. Injunction of Judge Thomas in which the whole court considered the motion when subdistrict trustee has actually made a recommendation between February 1 and April 1 such right continues at least until school begins. (October 22, 1936.)

Swinford v. Chasteen, et al., 261 Ky. 249. Subdistrict trustee may recommend teachers between February 1 and April 2. After that date county superintendent has sole recommending authority. (November 8, 1935.)

Taylor v. Bell County Board of Education, 260 Ky. 253. Where two teachers were to be chosen, county board held unauthorized to consider the teacher's nomination signed by trustee and filed two months after filing of same trustee's nominations of two other teachers. County board of education must consider employment of teachers nominated. (June 21, 1935.)

Reynolds, et al. v. Spurlock, 257 Ky. 582. Qualifications of teacher determined when applicant begins to teach. Withdrawal of recommendation not valid because trustee was not before the board and no record was made of his attempted withdrawal. (February 1, 1935.)

Wilson, et al. v. Alsip, et al., 256 Ky. 466. Subdistrict trustee has authority to nominate teachers in schools where only elementary grades are taught through the eighth grade. County superintendent nominates in all other schools. (November 23, 1934.)

Trosper, et al. v. Woodford County Board of Education, et al., 248 Ky. 780. County board of education, having reduced two-teacher to one-teacher school, must select qualified teacher recommended by subdistrict trustee. Sec. 4399a-7, Ky. Statutes. Acts 1932, c. 79. (April 28, 1933.)

Logan County Board of Education, et al. v. Funk, 245 Ky. 701. When board elected second recommendee as teacher, status of parties became fixed, and board could not subsequently without legal cause, pass new resolution to make it appear that trustee had withdrawn first recommendation. Subdistrict trustee's filing recommendation of teacher with board held not withdrawal of prior recommendation of another, in view of rule that trustee having once recommended teacher in writing, could not withdraw that except by writing filed with the board or by statement before board in session and its recordation in minutes of board. (November 4, 1932.)

Carter v. Lewis County Board of Education, et al., 242 Ky. 748. Because teacher had recommendation of the subdistrict trustee for a position in which he could recommend, the board of education had the burden. Subdistrict trustee could not nullify his written recommendation of teacher by orally telling board it could dispose of application of person recommended as it saw fit. Subdistrict trustee can withdraw written recommendation of teacher only in writing or by appearing before board in meeting. (February 9, 1932.)

Logan County Board of Education v. Fowler, 241 Ky. 166. County board of education without authority to fill a teaching position while a vacancy in the trusteeship exists. County board must elect teacher recommended by subdistrict trustee who moved out of subdistrict or fill the vacancy existing in the trusteeship and give him a chance to recommend the teacher. (November 20, 1931.)

Abrams v. Jackson County Board of Education, 230 Ky. 151. Under contract for employment of school teacher for seven months, it was duty of school board to furnish house in which to teach and in absence of stipulation in contract for cessation of teacher's salary during such period. Failure of board to furnish a suitable house in which to teach constituted a breach of contract. School teacher held not entitled to recover for breach of employment contract to teach school for seven months on destruction of school building by fire, in absence of evidence showing that she attempted to find similar employment in locality. (June 21, 1929.)

Rice v. Gilliam, 226 Ky. 613. County board of education under mandatory duty to elect teacher nominated by subdistrict trustee where he was qualified at time of meeting at which selection of teachers was to be made, though he had no teacher's certificate at time he was nominated. (November 30, 1928.)

Lovelace v. Steinbeck, 225 Ky. 669. County board must elect teacher, if she is qualified when election takes place. She must take responsibility of being qualified when school begins. Subdistrict trustee having recommended teacher who possessed necessary qualifications, it was duty of county board of education to elect her, as against one whose application did not bear indorsement of subdistrict trustee. (October 5, 1928.)

Foreman v. Board of Education of Christian County, 219 Ky. 573. County board given discretion to appoint or reject persons recommended by subdistrict trustees in view of provisions permitting county superintendent to include other recommendations and county board's authority to remove teachers for incompetency or unfitness. (April 29, 1927.)

Christian County Board of Education v. Gee, 217 Ky. 561. Where subdistrict trustee, after notice, failed to recommend teacher for colored school in his subdistrict, board of education may, after reasonable time, hire teacher on recommendation by any of its members notwithstanding acts of 1924, chapter 52, section 3. (January 14, 1927.)

160.140 [4399-10] **Vacancy in Office of Subdistrict Trustee; How Filled.**—In the event of a vacancy in the office of subdistrict trustee, the board of education of the county school district shall, at its next regular meeting, on the recommendation of the county superintendent, appoint a qualified person to fill the vacancy. The subdistrict trustee so appointed shall serve until the next regular time for the election of subdistrict trustees. Any person removed from the office of subdistrict trustee for cause is ineligible for appointment by the board of education of the county district to fill any vacancy in the office of subdistrict trustee prior to the date of the next regular election of such trustees.

Resignations, Removals and Vacancies, Ch. 63 KRS.

Ellis, et al. v. Van Horn, 245 Ky. 188. County board of education's attempt to select successor of school district trustee, who withdrew resignation before it was acted on, held void. (October 7, 1932.)

160.160 [4399-17; 4399-18] **Boards of Education; Nature; Corporate Powers.**—Each school district shall be under the management and control of a board of education consisting of five members, to be known as the "Board of Education of ....., Kentucky." Each board of education shall be a body politic and corporate with perpetual succession. It may sue and be sued; make contracts; purchase, receive, hold and sell property; issue its bonds to build and construct improvements; and do all things necessary to accomplish the purposes for which it is created.

Jury service, members of boards of education exempt from, KRS 29.030.

Board of Education of Berea, et al. v. Ballard et al., 299 Ky. 370. The constitutional provision that in distributing school fund no distinction shall be made on account of race or color and separate schools for white and colored children shall be maintained was not violated because the term of colored graded school was one month shorter durng the year than that of similar school for white pupils, especially where there was no allegation that the faculty, facilities, or equipment of the schools were unequal. (February 9, 1945.)

Board of Education of Kenton County v. Talbott, Commissioner of Finance Department, et al.—Same v. Commonwealth ex rel. Martin, Commissioner of Revenue, 286 Ky. 543. Constitutional provisions exempting educational institutions from taxation does not exempt county board from payment of gasoline tax used for transportation of school children. (March 28, 1941.)

Hunter, et al. v. Board of Education of Floyd County, 265 Ky. 162. Court not authorized to substitute its judgment for that of board and the variety of evidence and facts it considered. Information furnished does not show that the board of education acted arbitrarily or without creditable, competent and relevant evidence. Held that board acted within its discretion in removing him from office. (June 23, 1936.)

160.170 [4399-23] **Oath of Board Members.**—Every person elected to a board of education shall, before assuming the duties of his office, take the following oath, in addition to the Constitutional oath:

"State of Kentucky,

"County of.....

"....., being duly sworn, says that he

is eligible under the law to serve as a member of the board of education, and that he will not, while serving as a member of such board, become interested, directly or indirectly, in any contract with or claim against the board, and that he will not be influenced during his term of office by any consideration except that of merit or fitness in the appointment of officers or engagement of employes.

"....."

"Subscribed and sworn to before me this.....day of.....

"....."

The oath shall be kept on record by the board.

Constitutional oath, Const. 228.

160.180 [4399-22] **Qualifications of Board Members; When Not to Vote.**—(1) No person shall be eligible to membership on a board of education:

(a) Unless he has attained the age of twenty-four years; and

(b) Unless he has been a citizen of Kentucky for at least three years preceding his election and is a voter of the district for which he is elected; and

(c) Unless he has completed at least the eighth grade in the common schools as shown by the records of the school in which the eighth grade was completed or by affidavits of the teacher or teachers under whom the work was completed, or unless he has the equivalent of an eighth grade education as determined by an examination held under rules and regulations adopted by the State Board of Education; or

(d) Who holds or discharges the duties of any civil or political office, deputyship or agency under the city or county of his residence; or

(e) Who, at the time of his election, is directly or indirectly interested in the sale to the board of books, stationary or any other property, materials, supplies, equipment or services for which school funds are expended; or

(f) Who has been removed from membership on a board of education for cause.

(2) If, after the election of any member of the board, he becomes interested in any contract with or claims against the board, of the kind mentioned in paragraph (e) of subsection (1) of this section, or becomes a candidate for nomination or election to any

office or agency the holding and the discharging of the duties of which would have rendered him ineligible before election, or if he moves his residence from the district for which he was chosen, or if he does anything that would render him ineligible for reelection, his office shall without further action be vacant.

(3) A board member shall be eligible for reelection unless he becomes disqualified.

(4) No member of a board of education shall vote regarding the appointment or employment in any capacity of any person related to him as father, mother, brother, sister, husband, wife, son, daughter, nephew, niece, aunt, uncle, son-in-law, daughter-in-law or first cousin, and the majority vote of the remainder of the board is required in case of appointment or employment of such person.

Commonwealth v. Mullins, 286 Ky. 242. Examination to qualify for membership on a board of education must be taken under rules and regulations of the State Board of Education. (April 25, 1941.)

Saylor v. Rockcastle County Board of Education, et al., 286 Ky. 63. Individual seeking to recover office must allege and prove eligibility. (March 28, 1941.)

Commonwealth by Meredith, Atty. Gen. v. Hardin, 286 Ky. 404. Where undisputed facts showed that sale was made before election and note turned over to son on dissolution of partnership with no obligation to look to candidate for its payment, candidate retained no interest in collection of note which would disqualify him to hold office of county board member. (March 21, 1941.)

Commonwealth v. Begley, 273 Ky. 636. A person holding a contract to teach in the district at the time of his election is disqualified thereby to hold office as a member of the board of education. Attorney General may determine whether an emergency exists as to employment of counsel when he gives permission to bring suit in his name. (May 20, 1938.)

Commonwealth, by Meredith, Atty. Gen. v. Moye, et al., 273 Ky. 384. Affidavit of substitute teacher and testimony of fellow students that member had completed the eighth grade not sufficient and could not be considered. (May 3, 1938.)

Bert Whittaker and Orville T. Wilson v. Commonwealth of Kentucky, 272 Ky. 794. Bert Whittaker filed an affidavit of his teacher. This affidavit stated that the teacher does not have the records of the school and cannot state from memory what grade he was in but that he passed and completed to the best of her knowledge whatever grade he was taking each of the two years she taught in the Burnside school. He also filed affidavits of persons who went to school with him which stated that they were in the eighth grade with Whittaker.

In passing on this information the court said, as in the case of Commonwealth of Kentucky v. Norfleet, that it is " . . . mandatorily required that such qualification must be manifested by (a) the record of the school in which the eighth grade was completed, or (b) the affidavit of the teacher or teachers who taught the pupil through the eighth grade." The court further said that since he failed to meet all of the requirements of (a) and (b) above cited, and failed to take advantage of (c), which provides for an examination, he was not qualified to serve.

In the case of Wilson, the court held that because of the fact that he was employed as a teacher in the common schools when he was elected, he violated section 4399-22, Kentucky Statutes, (160.180 KRS), and was, therefore, not eligible to serve as a member of the board of education. (May 12, 1938.)

Commonwealth v. Griffen, 268 Ky. 830, 105 S. W. (2d) 1063. Former teacher of candidate for board of education testified that said candidate had been his pupil and had completed the eighth grade as "he was entitled to a diploma as having completed the work if I had the right to give it." Held this was sufficient evidence of the educational qualification required of such candidate.

Polley v. Fortenberry, et al., 268 Ky. 369. Constitution nor statutes prohibit holding two state offices or employment at same time. Office of member of county board of education is not incompatible with maintenance supervisor of roads. (May 4, 1937.)

Commonwealth ex rel. Vincent, Atty. Gen. v. Withers, 266 Ky. 29, 98 S. W. (2d) 24. Evidence held to fail to establish that member of county board had forfeited his office by being interested in contracts with the board. Nature of disqualifying interest to cause vacation of office discussed. (Nov. 4, 1936.)

Hall v. Boyd County Board of Education, et al., 265 Ky. 500. Member of a board of education may refuse to vote for a teacher related to another member as prohibited by law even though recommended by superintendent and otherwise qualified or else statute requiring unanimous vote of the remainder of the board would be made ineffective. (October 9, 1936.)

Incompatible offices, Const. 165, 237.

Removal of board members, KRS 156.110.

160.190 [4399-30] **Vacancies; How Filled.**—Any vacancy in any board of education shal be filled for the unexpired term by the other members of the board within ninety days after the vacancy occurs. If the vacancy is not filled by the other members of the board within ninety days, it shall be filled by the State Board of Education within thirty days after information has been filed by any citizen of the district that the vacancy has existed for more than ninety days. The member so chosen shall hold office for the unexpired term and until his successor is elected and has qualified.

Resignations, Removals and Vacancies, Ch. 63 KRS.

McClendon, et al. v. Hamilton; Acton v. Jasper, et al., 277 Ky. 734. In the absence of statutory authority to the contrary a judgment in quo warranto proceeding cannot be suspended pending final appeal. Offices of board members became vacant January 29, 1938, when circuit court rendered judgment. (May 2, 1939.)

Spurlock, et al. v. Spradlin, et al., 266 Ky. 164. Failure to attend three successive meetings constitutes no vacancy until board takes action on such failure. (November 13, 1936.)

Barton, et al. v. Brafford, et al., 264 Ky. 480. By authority of section 160.190 empowering "other members" to fill vacancies one member may fill a vacancy when four others have been removed, etc. (May 26, 1936.)

Board of Trustees of Salt Lick Graded Common School District, et al. v. Kercheval, et al., 242 Ky. 1. Remaining members of board cannot fill a vacancy if there does not exist a quorum. Where a deadlock exists, the Governor may, after reasonable time, exercise power of appointment. (August 19, 1931.)

Middleton v. Middleton, et al. ,239 Ky. 759. (Evarts G. S. Dist., Harlan County.) School trusteees may perform only duties enumerated in statute. Constitution and statute held intended to prohibit same person from filling two offices at the same time. Office of school trustee is "state office" and office of city councilman or town trustee is "municipal office" and are incompatible. (June 4, 1931.)

160.200 [4399-24; 4399-27] **Time of Election of Board Members; Term.**—(1) All elections for members of boards of education shall be in even numbered years, for a term of four years. Except as provided in subsection (3) of this section, the elections shall be held at the regular November election. In all county districts and in those independent districts embracing cities of the second or third class, two members shall be elected in 1942 and three in 1944. In all other school districts three members shall be elected in 1942 and two in 1944.

(2) In each even numbered year thereafter, there shall be held an election in every county and independent district to fill the membership of the boards of education for the terms that will expire on the first Monday in January following, and the regularly elected members shall hold office for four years and until their successors are elected and have qualified.

(3) Any independent school district embracing a city of the fifth class may, at the discretion of its board of education, hold its election of board members at its public school building on the first Saturday in May. The election shall be held by three officers appointed by the board of education and the expenses of the election shall be paid from the treasury of the school district. In all other respects the provisions of this chapter relating to holding elections for board members shall apply.

Branham v. Branham, 276 Ky. 767. Statute providing that each legal voter of a subdistrict shall reside in the subdistrict 60 days previous to the election means to be a legal voter one must have resided in the state a year, in the county 6 months, as well as in the subdistrict 60 days prior to the election. (February 10, 1939.)

Brown v. Rose, 233 Ky. 549. Directions to General Assembly given by Constitution, section 236, to prescribe time when general officers authorized and directed by Constitution to be elected or appointed shall enter upon duties where time is not fixed by Constitution held to have no application to membership on county board of education which is not constitutional office. It is general rule that one elected to office to fil a vacancy must qualify within reasonable time after he has received certificate of election to office. (March 25, 1930.)

Ridings v. Jones, 213 Ky. 810. The provisions in the Corrupt Practice Act, sections 1565b-1, to 1565b-18, inclusive, providing for the filing of a pre-election expense account is mandatory, but directory only as to the time of filing, the prevaling candidate for county board of education failing to file a pre-election account, as required by this act, cannot be declared a duly elected officer, nor can his contestant be declared elected, but the election must be declared void. (March 26, 1926.)

160.210 [4399-24] **Manner of Election of Board Members.**—(1) In independent school districts, the members of the school board shall be elected from the district at large. In county school districts, members shall be elected from divisions.

(2) The board of education of each county school district shall, not later than July 1, 1940, divide its district into five divisions as nearly equal in population and containing integral voting precincts in so far as is practicable. In first dividing the county district into divisions the board shall, if more than one of its members reside in one division, determine by lot which member from that division shall represent that division, and which members shall represent the divisions in which no member resides. The members so determined to represent divisions in which no member resides shall be considered the members from those divisions until their terms expire, and thereafter the members from those divisions shall be nominated and elected as provided in KRS 160.200 and KRS 160.220 to 160.250.

(3) When it is made necessary by changes in precinct boundaries or shifts in population, the county board of education may alter the boundaries of the divisions in order to equalize the population of the divisions or to make them conform to precincts, but no change shall be made in the boundaries of the divisions within six

months prior to the day on which a member of the school board is to be elected from any division. A record of the boundaries of each division and any changes made therein shall be kept in the office of the county board of education, and shall be published by the county board of education in a newspaper of general circulation.

(4) Any citizen in the district may prosecute an appeal to the county court from the action of the board in making a division line or a change thereof, and from the county court to the circuit court of the county in which the district is located. The procedure on appeal shall be the same as in other civil cases.

Commonwealth ex rel. Meredith, Atty. Gen. v. Whitt, et al., 291 Ky. 682. Action of county board of education in establishing districts noncontiguous, if wrong, was merely erroneous and not void. Action cannot be maintained against newly elected member from noncontiguous districts that they were usurpers. (October 23, 1942.)

Mason, et al. v. Montgomery County Board of Education, et al., 291 Ky. 654. Appeals from an order of the county board of education making a change in school district boundary lines does not permit litigants to proceed beyond the judgment of the circuit court. (October 20, 1942.)

160.220 [4399-25] **Secret Ballots; Nominating Petitions.**—All elections for members of boards of education shall be by secret ballot. The ballot shall be on a separate sheet from all other ballots used in any election. The county clerk shall cause to be printed on the ballot the names of legally eligible candidates in whose behalf he is petitioned to do so in writing by not less than fifty legal voters of the county school district division or independent school district as the case may be, except that in independent school districts embracing a city of the first or second class the number of such petitioners shall not be less than one hundred. The petitions must be filed as provided in KRS 118.120 and 118.130. Each petition must be signed by the requisite number of qualified persons, and shall show the district or the division of the county district, as the case may be, and the place of residence of each person signing it. In county school district divisions no person shall sign more than one petition, and in independent school districts not more petitions than the number of offices to be filled.

See General Provisions for time for candidate for board member to file petition.

Branham v. Branham, 276 Ky. 767. In order to cast a legal vote, one must have lived in the state and county for time required by Const. 145, and must have also have lived in the school district or voting precinct for sixty days before the election. (February 10, 1939.)

160.230 [4399-25] **Form of Ballot; Order in Which Names Appear.**—The ballot shall be in the form prescribed for ballots by the general election law, except that no party emblem or distinguishing mark shall be placed upon the ballot, save the words

"School Ballot" at the head thereof. The name of all candidates for membership on the board of education shall be printed on the first fifty ballots in a single column in the order the petitions are filed. On each of the succeeding fifty ballots the names shall be printed in the same order, except that the last name on the preceding fifty ballots shall be shifted to the first place, and so on thereafter throughout, a like change being made in the printed order of names for every fifty ballots. The ballots shall be so bound that in the book of ballots for each voting precinct each candidate's name will appear first on approximately the same number of ballots as that of every other candidate. As many additional lines shall be left blank as there are members to be elected from the district or division as the case may be.

Bowling v. Amis, 286 Ky. 738. Purpose of law requiring place of residence of signer was to enable officers and others to determine if subscribers were qualified. (May 23, 1941.)

160.240 [4399-25] **General Election Laws Apply; Procedure; Expense.**—(1) The general election laws shall apply to all elections of school board members. The sheriff of the county in which the school district is situated shall provide for each precinct in the district a separate box for the reception of ballots used in the election of members of the board of education. The judge of election of the opposite political party to the clerk of election in each precinct shall issue the school ballots and observe, as to these ballots, the regulations for the issue and deposit of ballots as are prescribed for elections generally.

(2) In school districts embracing cities of the first five classes the expense of the election shall be paid by the city from its general funds. In all other districts the expense shall be paid by the fiscal court out of its general funds.

Montague v. Collins; Heird, et al. v. Same, 296 Ky. 57. Defendants having failed to contest the election within 30 days or to present facts to show election void, were precluded from the election. (December 3, 1943.)

160.250 [4399-25] **Politics of Candidate Not to be Indicated.**—No election officer or other person within an election booth shall tell or indicate to a voter the political affiliation of any candidate.

160.260 [4399-26] **Number of Candidates to be Voted for.**—(1) The voting in county districts shall be by divisions. Each voter shall be issued a school ballot and shall vote for only one candidate by making a cross in the square opposite the name of the candidate for whom he wishes to vote. The legally eligible can-

didate receiving the highest number of votes cast in his division shall be declared elected.

(2) In independent school districts each voter may vote for as many candidates as there are members to be elected by making a cross in the square opposite the name of each candidate for whom he wishes to vote, and the ballot shall show the number of board members to be elected. The candidates, in number equal to the number of members to be chosen, who have the highest number of votes shall be declared elected.

Note:—School elections do not come within and are not controlled by the provisions of sections 145 to and including 154 of the Constitution. (See section 155 of the Constitution of Kentucky.)

Huff, et al. v. Black, et al., 259 Ky. 550. Person whose name was written on the ballot entitled to contest in election even though not on a petition. Signatures on first petition not invalidated because later signed another petition. (May 14, 1935.)

Horn v. Wells, 253 Ky. 494. Unsuccessful candidate held entitled to contest election on ground prevailing candidate violated Corrupt Practice Act, though successful contest would not give contestant office. (May 10, 1934.)

Howard v. Whittaker, 250 Ky. 836. Evidence established that bribery was committed in interest of candidate for county board of education with candidate's knowledge. (1565b-1 et seq.)

Candidate's knowledge of violation of Corrupt Practice Act may be established by showing he committed, consented to, or authorized others to commit, or personally observed commission of, prohibited acts or by circumstances surrounding candidate and his workers during preparation for election and on day thereof.

Large plurality received by candidate held not to entitle him to office where violation of Corrupt Practice Act was shown. (October 24, 1933.)

Caudill v. Stidham, 246 Ky. 174. Election commission held authorized to dissolve tie between candidates for election as member of county board of education by lot and issue certificate of election to winner thereby determined.

Election of member of county board of education must be held void and vacancy declared where vote of one precinct in which over 20 per cent of votes cast were illegal, exceeded such precentage of total vote. (November 25, 1932.)

160.270 [4399-20; 4399-29] **Meetings; Regular and Special; Quorum; Record of Proceedings.**—(1) Each board of education shall hold at least one regular meeting each month, at a time and place fixed by the board. Special meetings may be called by the chairman. On request of three members of the board the secretary shall call a special meeting. Each member of the board shall have timely notice of each meeting and the nature, object and purpose for which it is called. Any board member failing to attend three consecutive regular meetings, unless excused by the board for reason satisfactory to it, shall be deemed to have vacated his office. A majority of the board shall constitute a quorum for the transaction of business.

(2) The secretary shall be present at the meetings of the board and shall record in a book provided for that purpose all its official proceedings, which shall be a public record open to inspection.

Baisden v. Floyd County Board of Education, et al., 270 Ky. 839. Where member of county board was absent from one meeting and was absent from the next two meetings, although he made trips to town for purposes of attending

meetings because of board's failure to inform him of change in time of holding meetings board's removal of such member was arbitrary and improper. (November 12, 1937.)

Montague v. Collins; Heird, et al. v. Same, 296 Ky. 57. Defendants having failed to contest the election within 30 days or to present facts to show election void, were precluded from the election. (December 3, 1943.)

Brown v. Turman, 264 Ky. 407. All members must have legal notice of meeting of board of education. Electing superintendent under conditions cited in this case held illegal. (May 19, 1936.)

Board of Education of Wurtland Independent School District, et al. v. Stevens, et al., 261 Ky. 475. Office of member missing three consecutive meetings not vacant unless action of board so declares. Boards of education had authority to merge districts. (November 26, 1935.)

160.280 [4399-32] **Per Diem and Expenses Allowed County Board Members.**—Members of boards of education shall receive no salaries, but members of county boards of education may receive a per diem of five dollars and their actual expenses for each regular or special meeting attended, and may be reimbursed for other actual and necessary expenditures incurred in the district in the performance of their duties authorized by the board. In no case shall the expense or per diem of any member exceed one hundred dollars per annum. All claims shall be made out according to law and filed with the secretary of the board and shall be approved and paid as other claims against the board.

160.290 [4399-20; 4399-33] **General Powers and Duties of Board.**—(1) Each board of education shall have general control and management of the public schools in its district and may establish such schools and provide for such courses and other services as it deems necessary for the promotion of education and the general health and welfare of pupils, consistent with the rules and regulations of the State Board of Education. Each board shall have control and management of all school funds and all public school property of its district and may use such funds and property to promote public education in such ways as it deems necessary and proper. Each board shall exercise generally all powers in the administration of its public school system, appoint such officers, agents and employes as it deems necessary and proper, prescribe their duties, and fix their compensation and terms of office.

(2) Each board shall make and adopt, and may amend or repeal, rules, regulations and bylaws for its meetings and proceedings for the government, regulation and management of the public schools and school property of the district, for the transaction of its business, and for the qualification and employment of teachers and the conduct of pupils. The rules, regulations, and bylaws heretofore made by any governing body of a school district, or hereafter made by a board of education, shall be consistent with

the general school laws of the state and shall be binding on the board of education and parties dealing with it until amended or repealed by an affirmative vote of three members of the board. The rules, regulations and bylaws shall be spread on the minutes of the board and be open to the public.

Conferences of public school officials, board to pay expenses of, KRS 156.190.
Flags to be supplied for display at school, KRS 2.040.
Injury to school property, board to bring action for, KRS 273.060.
Machinery used for manual training, board of education to approve, KRS 339.130.
School employes, provisions as to, Ch. 161, KRS Teachers' retirement, board to make salary deductions and reports for, KRS 161.560, 161.570.
(For other powers and duties of board see other chapters in this title.)

Thacker v. Pike County Board of Education, 301 Ky. 781. County board of education being a public agency is immune from liability to laborers and others in and while discharging functions of such agency for injuries sustained by negligence of its employees. (March 15, 1946.)

Begley, et al. v. George E. Dum Co., 293 Ky. 351. Validity of claim against the board for school supplies was not challenged prior to time board entered into agreement with seller to settle original claim. Board should be held to agreement. (February 23, 1943.)

Board of Education of Kenton County v. Talbott, Commissioner of Finance Department, et al.; Same v. Commonwealth ex rel. Martin, Commissioner of Revenue, 286 Ky. 543. Constitutional provisions exempting educational institutions from taxation does not exempt county board from payment of gasoline tax used for transportation of school children. (March 28, 1941.)

Schuerman, et al. v. State Board of Education, et al., 284 Ky. 556. Boards of education are authorized to pay out of public school funds annual membership dues in the Kentucky Association of School Board Members. (May 10, 1940.)

Weaks v. Board of Education, Graves County, et al., 282 Ky. 241. The plan the Graves County Board of Education adopted to convey to a holding company approximately twenty per cent of the school property of the county school district for the erection of a school building but not the site on which the building was to be erected was unauthorized and the board of education would be enjoined from conveying properties beyond the limits approved heretofore accorded in Scott County Board of Education v. McMillen. (February 27, 1940.)

Scott County Board of Education v. McMillen, 270 Ky. 483. The plan of the county board of education providing for conveyance to holding corporation properties which were to be jointly mortgaged to secure payment of bonds, was not invalid because all properties were jointly subject to lien for payment of bonds or because provision for refunding of any taxes paid by bondholders if annual payment was within board's unencumbered annual income. (November 5, 1937.)

Emmons v. Board of Education of Lewis County, 260 Ky. 17. County board of education has authority to deed property to holding corporation with understanding it will be deeded back when bonds are paid. (June 11, 1935.)

Thompson v. Pendleton County Board of Education, et al., 258 Ky. 843. Findings of the county board of education in proceeding wherein principal-teacher and principal teachers were tried on charge were conclusive on court unless it is clearly shown that the board abused its discretion. (April 23, 1935.)

Montgomery County Board of Education, et al. v. Messer, 257 Ky. 836. (1) Board of education may establish qualification higher than the minimum required by the statutes. (2) The board may require transcript of college work filed before application of the teacher is placed before the board. (3) Board may require sixty-four semester hours' college training of teachers under its order except those who taught in the county the preceding year. (January 22, 1935.)

Board of Education of Bowling Green v. Simmons, 245 Ky. 493. Creation by board of education of position of nurse and employment to fill such position held for interest of schools of city within statutes and Constitution. City school board cannot itself raise revenue to defray school expenses, but may make appropriation out of school funds in its hand not otherwise appropriated by law. Statutes controlling qualifications of teachers held inapplicable to position of school nurse and teacher of health and physical education. (Ky. Stat., Secs. 3464, 3474, 3478; Constitution, Sec. 184.) (October 25, 1932.)

Trustees of Congregational Church of Evarts v. Board of Trustees of Evarts Graded Common School District, 230 Ky. 94. Where board of school trustees made sale of school property to church without fraud, school trustees subsequently elected could not nearly five years after sale rescind sale because it decided it was a bad trade, since school board is continuing body and was in the position of a natural person. (June 14, 1929.)

Elliott County Fiscal Court v. Elliott County Board of Education, 193 Ky. 66, 234 S. W. 947. The county board of education is a body politic and corporate with perpetual succession, and therefore a debt created by the board is a continuing obligation of the board, regardless of any change in its membership, and no question of assumption of indebtedness which an old board contracted can

arise. Where the county board of education prepares and submits to the fiscal court a detailed expense budget for the succeeding year, it is incumbent on the fiscal court to make a levy for the amount required unless the board acted corruptly or in bad faith, or embraced in their expenditures items not authorized by law. A budget of the county board of education filed with the fiscal court may include outstanding indebtedness.

Lawrence Co. v. Lawrence Fiscal Court, 191 Ky. 45. Records of fiscal court show that on the day the questioned resolution was passed there were seven justices present and the county judge, that a roll call of the justice showed four votes cast for the resolution and three against. The record is silent as to the action of the county judge. The validity of the resolution is attacked among others on the ground that it was necessary in order to carry the resolution for it to receive votes, eight members of the fiscal court being present, and having received only four votes it failed. Court says rule of law is, viz.: "When the requisite number of the body to form a quorum is present and has opportunity to and does vote upon a proposition, those members who are present and do not vote will be considered as acquiescing with the majority and their silence construed as they voting with the majority."

Vaughn v. Hindman, 145 Ky. 507, 140 S. W. 641. A teacher had a contract with a board of trustees to teach a public school for a term of six months; the school building was destroyed by fire before expiration of the six months and no other building was provided. The teacher had no right of recovery for the salary for the remainder of the term.

160.300 [4399-55] **Investigations by Board; Power to Summon Witnesses.**—(1) A board of education may, in any investigation or proceeding before it, concerning a matter that may be a proper subject of inquiry by it, summon witnesses by subpoena, enforce their attendance, and require that they testify under properly administered oath.

(2) No person so summoned shall refuse to attend or to produce a written statement to be used as legal evidence in the investigation or proceeding, or, if present, refuse to testify concerning any matter that may be a proper subject of inquiry.

160.310 [4399-20a; 4399-20b] **Board to Provide for Insurance for School Busses.**—Each board of education may set aside funds to provide for liability and indemnity insurance against the negligence of the drivers or operators of school busses owned or operated by the board. If the transportation of pupils is let out under contract, the contract shall require the contractor to carry indemnity or liability insurance against negligence in such amount as the board designates. In either case the indemnity bond or insurance policy shall be issued by some surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment rendered against the insured for loss or damage to property of any school child or death or injury of any school child or other person.

Regulations as to schood busses, KRS 189.540.

Thacker v. Pike County Board of Education, 301 Ky. 781. County board of education being a public agency is immune from liability to laborers and others in and while discharging functions of such agency for injuries sustained by negligence of its employees. (March 15, 1946.)

Kirkpatrick's Adm'x. (Bronaugh) v. Murray, et al., 294 Ky. 715. Members of boards of education are individually responsible if they fail to act as required by statute concerning carrying liability insurance on school buses. (June 15, 1943.)

Taylor v. Knox County Board of Education, 292 Ky. 767. Statutes authorizing boards of education to carry liability and indemnity insurance does not make board liable. It permits board to be sued to determine measure of insurance carrier's liability. It authorizes child to maintain action against board for negligence of drivers where board of education carries such insurance. (December 15, 1942.)

Wallace v. Laurel County Board of Education, et al., 287 Ky. 454. A school district or a school board, in the absence of a statute imposing it, is not subject to liability for injuries to pupils of public schools received in connection with their attendance thereat, since boards of education are engaged in a governmental function. (June 14, 1941.)

Dalzell v. Bourbon County Board of Education, et al., 193 Ky. 171. Boards may purchase insurance from mutual companies. (December 6, 1921.)

160.320 [4399-61] **Passways to School for Pupils; Provision for.**—Any board of education may make provision for roads or passways to its school buildings to accommodate all pupils who are entitled to attend school, and may apply to the county court or the governing authority of the city having jurisdiction to open the same as other roads and passways are opened for public necessity and convenience. If there is no road or passway from the residence of any pupil to the school building which he attends it shall be lawful for such pupil, in attending school, to walk over the property of any person between the residence of the pupil and the school building.

Toll not to be charged pupils crossing toll bridge to attend school, KRS 280.320.

Madison County Board of Education v. Skinner, et al., 299 Ky. 707. Board of education required to furnish transportation for remainder of school year 1944-45 if and when it can because of condition of roads. (April 17, 1945.)

160.330 [4363-12; 4434-11] **Free Textbooks; Boards May Furnish.**—Each board of education may furnish textbooks and other necessary school supplies free of charge to indigent children in its school district or to such other children as it deems advisable, under such rules and regulations as it may adopt. The superintendent shall report to the tax levying authority of the district the number and cost of textbooks and school supplies needed by the indigent school children of the district, and the tax levying authority shall appropriate a sum of money sufficient for the purchase of textbooks and school supplies for such children. The sum appropriated annually by the tax levying authority shall not be less than two hundred dollars in a county school district and fifty dollars in an independent school district.

Attendance officer to report needs of indigent children to superintendent, KRS 159.140.

Books of pupils leaving district to be purchased by board, KRS 156.350.

Free textbooks furnished by state, Ch. 157, KRS.

Penalty for failure of superintendent to report, KRS 159.990.

160.340 [4399-54] **Reports by Boards to State Board of Education; Other Reports.**—Each board of education shall, on the forms prepared by the Superintendent of Public Instruction and approved by the State Board of Education, prepare and submit to the State

Board of Education reports on all phases of its school service. Each board may prepare and publish for the information of the public a report on the progress of its schools.

City having commission form of government, reports of board of education to, KRS 89.280.
Financial matters, reports to State Board of Education with respect to, KRS 157.060.
Superintendent of Public Instruction to supervise accounts and reports of local boards, KRS 156.160, 156.200.
Teachers' retirement, records for to be kept, KRS 161.560, 161.570.

160.350 [4399-34] **Superintendent of Schools; Appointment; Term; Salary; Vacancy; Qualifications; Removal.**—Each board of education shall appoint a superintendent of schools whose term of office shall begin on July 1 following his appointment. The appointment may be for a term of one, two, three or four years. The board shall fix the salary of the superintendent at not less than $1,200 per annum, to be paid in monthly installments. In the case of a vacancy in the office for an unexpired term, the board of education shall make the appointment so that the term will end on June 30. Before any superintendent assumes his duties he shall present to the board of education that elected him a statement signed by the Superintendent of Public Instruction that he has been duly issued a certificate of administration and supervision issued in accordance with the provisions of law and which qualifies him to hold the position to which he has been elected, and he shall hold such certificate throughout the period of his employment. A superintendent of schools may be removed for cause by a vote of four members of a board of education. Written notice setting out the charges for removal shall be spread on the minutes of the board and given the superintendent fifteen days before action is taken on his removal. (1942, c. 113)

Certification of school employes, Ch. 161, KRS.
Jury service, superintendent exempt from, KRS 29.030.
Resignations, Removals and Vacancies, Ch. 63, KRS.
Richardson v. Bell County Board of Education, 296 Ky. 520. Positions of teacher and Asst. Supt. incompatible. (February 1, 1944.)
Chestnut, et al. v. Reynolds, 291 Ky. 231. When superintendent is elected as prescribed by statute, such election cannot be rescinded. Superintendent may be removed from office as prescribed by statute. Appointment of superintendent does not result from contract negotiated between the board and appointee but from a formal election as provided by statutes. (June 19, 1942.)
Duff v. Chaney, et al., 291 Ky. 308. A teacher who is legally qualified for a position and who has been duly nominated by proper officer and whose name has not been withdrawn acquires a "vested right" to teach and to receive emoluments of employment. Such teacher may recover damages from members of the board and new superintendent individually. (April 21, 1942.)
Talbott, Commissioner of Finance v. Public Service Commission, et al., 291 Ky. 109. Five thousand dollar salary limit applies to public offices except Governor, president and professors of University of Kentucky and teachers colleges, etc. It does not apply to persons rendering services under contract for Commonwealth of irregular or temporary nature, etc. (Feb. 24, 1942.)
Starns v. Board of Education of Bourbon County, 280 Ky. 747. Board did abuse its authority of law by dismissing the superintendent of schools. (December 8, 1939.)

Maynard v. Allen, et al., 276 Ky. 485. A superintendent may be appointed before the first day of April in the year in which his term begins, provided the appointment is made by the same board authorized to act when the vacancy actually occurs and by members whose terms extend beyond the date when term of appointed office begins. (January 24, 1939.)

Knuckles v. Board of Education of Bell County, 272 Ky. 436. Position of superintendent or assistant superintendent is incompatible with that of teacher in the public schools. (April 21, 1938.)

Whitley County Board of Education v. Rose, 267 Ky. 283. Salary and expense of superintendent of schools could not be reduced during term of office under Kentucky Statutes, 1930. Successor could serve only remainder of the term. (February 16, 1937.)

Hunter, et al. v. Board of Education of Floyd County, 265 Ky. 162. Court not authorized to substitute its judgment for that of board and the variety of evidence and facts it considered. Information furnished does not show that the board of education acted arbitrarily or without creditable, competent and relevant evidence. Held that board acted within its discretion in removing him from office. (June 23, 1936.)

J. W. Smith v. Board of Education of Ludlow, et al., 264 Ky. 150. Held that facts in the case did not warrant conclusion that the charges or evidence was sufficient to remove appellant superintendent from his office. In quoting from 22 R. C. L., page 571, section 822, the court held that the word "cause" in the statutes authorizing the removal of the officers for cause means legal cause and not any cause which the board authorized to make such removal may deem sufficient. Where an officer holds for a fixed term and is removable for cause only, it is essential to a valid removal that the charges be legally sufficient. (February 25, 1936.)

Commonwealth ex rel. Baxter, Commonwealth's Attorney v. Burnett, 237 Ky. 473. County superintendent not county officer and, therefore, cannot be proceeded against by Commonwealth's Attorney. (February 17, 1931.)

160.360 [4399-34] **Assistant Superintendents.**—Each board of education may, on the nomination of the superintendent of schools, appoint as many assistant superintendents as it deems necessary, whose compensation shall be fixed by the board. (1942, c. 113.)

Knuckles v. Board of Education of Bell County, 272 Ky. 436. Position of superintendent or assistant superintendent is incompatible with that of teacher in the public schools. (April 21, 1938.)

160.370 [4399-34] **Executive Agent of Board; Superintendent Is; Duties As.**—The superintendent shall be the executive agent of the board that appoints him and shall meet with the board except when his own tenure, salary, or the administration of his office is under consideration. As executive officer of the board, the superintendent shall see that the laws relating to the schools, the bylaws, rules and regulations of the State Board of Education, and the regulations and policies of the district board of education are carried into effect. He may administer the oath required by the board of education to any teacher or other person. He shall be the professional adviser of the board in all matters, except as provided in KRS 160.430. He shall prepare, under the direction of the board, all rules, regulations, bylaws and statements of policy for approval and adoption by the board. He shall have general supervision, subject to the control of the board of education, of the general conduct of the schools, the course of instruction, the management of teachers, the discipline of pupils, and the management of business affairs, except as provided in KRS 160.430.

Boundaries of district, superintendent to furnish to railroad or bridge company, KRS 136.190, 136.990.
Child labor law, duties of superintendent under, KRS 339.080.
Conferences of public school officials, superintendent to attend, KRS 156.190.
County children's bureau, superintendent to appoint members of, KRS 200.140.
Library board for county and city library, when superintendent to appoint members of, KRS 172.090.
Reports of financial matters to State Board of Education, KRS 157.060.

Duff v. Chaney, et al., 291 Ky. 308. A teacher who is legally qualified for a position and who has been duly nominated by proper officer and whose name has not been withdrawn acquires a "vested right" to teach and to receive emoluments of employment. Such teacher may recover damages from members of the board and new superintendent individually. (April 21, 1942.)

160.380 [4399-34] School Employes; Superintendent to Recommend; Qualifications; When Employed.—Except as provided in KRS 160.130 and 160.430, all appointments, promotions and transfers of principals, supervisors, teachers and other public school employes shall be made only upon the recommendation of the superintendent of schools, subject to the approval of the board. If the board of education cannot agree with the superintendent as to any legally qualified person recommended by the superintendent, the board of education may appeal to the State Board of Education to review the case and the decision of the State Board of Education shall be final. All employes of the board shall have such qualifications as are prescribed by law and by the regulations of the State Board of Education and of the employing board. Supervisors, principals, teachers and other employes may be appointed by the board of education for any school year at any time after April 1 next preceding the beginning of the school year. (1942, c. 113.)

Deduction from salaries for teachers' retirement fund, KRS 161.560, 161.570.
Jury service, school employes exempt from, KRS 29.030.
School employes, provisions as to, Ch. 161, KRS.

Thacker v. Pike County Board of Education, 301 Ky. 781. County board of education being a public agency is immune from liability to laborers and others in and while discharging functions of such agency for injuries sustained by negligence of its employees. (March 15, 1946.)

Ritchie v. Dunn, et al., 297 Ky. 410. Teacher Tenure Act does not mean teacher must be reemployed in same school. One must show eligibility to teach in a certain district before such claim can be made. (May 2, 1944.)

O'Daniel v. McDaniel, County Superintendent of Schools, et al., 290 Ky. 77. Former superintendent attempted to comply with statutes on recommending teachers, but county board of education adopted tactics to circumvent the selection of employees until after retirement of superintendent. Such attempt to recommend held substantial compliance with statutes and county board of education required to carry into effect the recommendation. (March 20, 1942.)

Amburgey, et al. v. Draughn, 288 Ky. 128. Where a teacher has been legally nominated and name has not been legally withdrawn law implies a contract and performances will be enforced. Where board employed and paid teachers not recommended by superintendent, the recommended teachers are entitled to recover from members of the board and substituted teachers. Teachers and bus drivers must show that board's failure to employ them required them to remain out of employment. It is their duty to show that an effort was made to get other employment which would minimize damages for lack of employment. (October 28, 1941.)

Board of Education of Wolfe County, et al. v. Rose, et al.; Board of Education of Wolfe County v. Same, 285 Ky. 217. County superintendent entered into an agreement to resign on certain date and cannot be heard to complain that such agreement is opposed to public policy as he was as guilty as other parties thereto and law will not intervene. (December 20, 1940.)

Wisdom's Adm'r. v. Sims, County Superintendent of Schools, et al., 284 Ky. 258. Schools and School Districts. Failure of qualified teacher, whose applica-

tion had been rejected by county board, to assert her right to appointment, by reason of her recommendation by county superintendent, until institution of injunction suit seven months later, could not be construed as a "ratification" of appointment of another teacher so as to estop rejected applicant from then asserting her rights. (October 25, 1940.)

Beckham, et al. v. Kimbell, et al. (three cases), **282 Ky. 648.** County board of education compelled to elect teachers nominated by superintendent if they are legally and morally qualified. The burden of showing lack of qualifications is on the board of education. Law contemplates that nominations be made before July 1. (April 23, 1940.)

Coleman, et al. v. Board of Education of Pike County, et al., 277 Ky. 588. Where person recommended as primary teacher appeared at hearing before county board on charges preferred against him and refused to deny the most far-reaching charges, board was justified in rejecting recommendation. (March 24, 1939.)

Board of Trustees of Fairview Graded Common School District, et al. v. Renfro, et al., 259 Ky. 644. Principal of a school a state employee and not disqualified to be employed by trustees even though he was a member of the General Assembly. (May 28, 1935.)

Stith, et al. v. Powell, County Superintendent of Schools, et al., 251 Ky. 155. County board of education cannot reject nominations made by county superintendent of school for principals, assistant principals and teachers for county consolidated and high schools, except for lack of moral and educational qualifications, as to which board has discretion in determining fitness. Order requiring county board to elect principal and teachers nominated by county superintendent held proper, where nominees were morally and educationally qualified.

County superintendent could withdraw nomination at meeting of county board where nomination was considered.

Election of principal by county board after county superintendent notified board at its meeting that he withdrew nomination held void, though information of withdrawal was received by board not in accordance with parliamentary rules. (Sections 4399a-7, 4399a-11.) (November 3, 1933.)

Rynerson v. Mercer County Board of Education, et al., 244 Ky. 292. Only principals and teachers nominated by county superintendent can be elected for high schools by county board of education. (Secs. 4399a-7, 4399a-11, 4526b-3.) (May 27, 1932.)

Board of Education for Logan County, et al. v. Akers, et al., 243 Ky. 177. County board cannot reject a teacher because she has no certificate when selected where certificate was received before commencement of school year.

Board cannot adopt rules precluding teacher from securing a position because of active support of candidate for office of subdistrict trustee. (March 25, 1932.)

Floyd County Board of Education, et al. v. Hall, et al., 242 Ky. 680. County board of education without authority to choose a principal of a school without his first being nominated by county superintendent. (March 8, 1932.)

Gover v. Stovall, et al., 237 Ky. 172. (1) Written contract required of teachers. (2) Define misconduct for which teacher may be dismissed. (January 30, 1931.)

Abrams v. Jackson County Board of Education, 230 Ky. 151. Under contract for employment of school teacher for seven months, it was duty of school board to furnish house in which to teach and in absence of stipulation in contract for cessation of teacher's salary during such period. Failure of board to furnish a suitable house in which to teach constituted a breach of contract. School teacher held not entitled to recover for breach of employment contract to teach school for seven months on destruction of school building by fire, in absence of evidence showing that she attempted to find similar employment in locality. (June 21, 1929.)

Lovelace v. Steinbeck, 225 Ky. 669. County board must elect teacher, if she is qualified when election takes place. She must take responsibility of being qualified when school begins.

Subdistrict trustee having recommended teacher who possessed necessary qualifications, it was duty of county board of education to elect her, as against one whose application did not bear indorsement of subdistrict trustee. (October 5, 1928.)

Moss, et al. v. Eubank, et al., 176 Ky. 739. If a school has been designated and created by the county board of education as a high school, the authority for the employment of teachers, in the entire school is with the county board of education, and the trustee of the district in which the high school is created has no authority to appoint or designate teachers in the school, not even for the branches taught in the common school before it was designated as a high school.

160.390 [4399-34] **Superintendent May Appoint Clerks; General Duties as to Condition of Schools; Reports.**—(1) The superintendent of schools may appoint necessary clerks, and may remove them at pleasure. The number and salaries of the clerks shall be determined by the board.

(2) The superintendent shall devote himself exclusively to his duties. He shall exercise general supervision of the schools of his district, examine their condition and progress, and keep himself informed of the progress in other districts. He shall prepare or have prepared all budgets, salary schedules and reports required of his board by the State Board of Education. He shall advise himself of the need of extension of the school system of the district, shall receive and examine reports from teachers and other school officers, and shall make reports from time to time as required by the rules of his board or as directed by the board. He shall be responsible to the board for the general condition of the schools.

Reports of financial matters to State Board of Education, KRS 157.060. Superintendent of Public Instruction to supervise financial reports, KRS 156.160, 156.200.

160.400 [4399-34] **Outgoing Superintendent; Duties of.**—An outgoing superintendent shall, before his last month's salary is paid, make all reports required by law to date of his retirement and shall have information assembled to date of his retirement for any reports to be made by the incoming superintendent.

160.410 [4399-35] **Expenses of Superintendent and Employes.**—A board of education may pay the necessary expenses of its superintendent and other employes when such expenses are incurred on order of the board.

Whitley County Board of Education v. Rose, 267 Ky. 283. Salary and expense of superintendent of schools could not be reduced during term of office under Kentucky Statutes, 1930. Successor could serve only remainder of term. (February 16, 1937.)

160.420 [4399-36] **Interest in Teacher's Claim Prohibited.**—No superintendent shall buy for himself or for another any teacher's claim, nor shall he be interested, directly or indirectly, in such claim.

160.430 [4399-37] **Business Directors in Cities of the First Two Classes.**—(1) Boards of education of independent districts embracing a city of the first or second class may appoint a business director. The business director may, at the discretion of the board, be directly responsible to the board of education or he may be recommended by the superintendent of schools and serve as an assistant superintendent of schools in charge of business affairs, responsible directly to the superintendent of schools. If the business director is made assistant superintendent of schools in charge of business affairs he shall perform all duties set out in this section

only with the approval and under the direction of the superintendent of schools. He may be appointed for a term of one, two, three or four years, the term to begin on July 1 following his appointment. In the case of a vacancy in the office for an unexpired term, the board of education shall make the appointment so that the term will end on June 30. He may be removed for cause by a vote of three members of the board. His qualifications and salary shall be determined by the board. He shall qualify by taking the oath prescribed by law unless he is designated as an assistant to the superintendent of schools. He may be required to give such bond as the board deems necessary. If the bond is executed by a surety company, the board shall pay the premium.

(2) The business director shall execute for the board, in its name, its contracts and obligations and shall see that all contracts made by or with the board are fully and faithfully performed. He shall oversee the construction of buildings in process of erection and the repairs of buildings owned or controlled by the board. He shall advertise for bids and shall purchase all supplies and equipment authorized by the board, and shall manage the business affairs of the board. He shall devote his entire time to the duties of his office. He shall make the reports required by the rules, regulations and bylaws of the board and such special reports as the board may require of him, and he shall furnish the superintendent of schools such information as the superintendent may need in making reports to the State Board of Education or the Superintendent of Public Instruction.

(3) The business director shall appoint and may remove, subject to the approval of the board of education, engineers, janitors and such other custodial employes as may be necessary for the proper management of the school properties. The board shall fix the salary of such employes. The employes shall be under the direction of the business manager, and he shall be responsible for their work. The board of education may prescribe such requirements as it deems necessary for the positions of engineers, janitors and other custodial employes consistent with the general school laws and with the rules and regulations of the State Board of Education.

Jury service, school employes exempt from, KRS 29.030.

160.440 [4399-38] **Secretary of Board of Education.**—Each board of education shall appoint a secretary for a term of one, two, three or four years. The secretary shall not be a member of the

board of education. The board of education of any district may appoint its superintendent as secretary, and the board of education of an independent school district embracing a city of the first or second class may appoint its business manager or assistant superintendent of schools in charge of business affairs as secretary. The board may fix a reasonable salary for the secretary. The secretary shall keep the records of the board and perform other duties imposed upon him by the board. All orders of the board must be signed by the secretary and countersigned by the chairman of the board. The secretary shall be custodian of all securities, documents, title papers and other papers of the board under such conditions as the board may direct. The secretary, when other than the superintendent, shall make all records of the board available to the superintendent at any time and shall furnish the superintendent of schools such information as is revealed by his records at any time upon the request of the superintendent.

Jury service, school employes exempt from, KRS 29.030.

160.450 [4399-39] **Fiscal Year of School Districts.**—The fiscal year of all school districts shall begin on July 1 and end on June 30, except in those districts where the law governing the municipality which they embrace provides otherwise.

Fiscal year, Const. 169.
School year, KRS 158.050.

160.460 [4399-40] **School Taxes; When and by Whom Levied; Property Subject to Levy.**—(1) All school taxes shall be levied by the fiscal court of each county except in independent school districts embracing cities of the first four classes when the boundary lines of independent districts in such cities are coterminous with the municipal limits of such cities. In such districts the tax shall be levied by the governing body of the city. The tax levying authority shall levy an ad valorem tax at the rate specified by the district board of education and approved by the State Board of Education, within the limits prescribed in KRS 160.480 and 160.490, and such poll tax as the district board of education requests, within the limit prescribed in KRS 160.480, except that the tax levying authority of an independent district embracing a city of the first class shall determine, within the limits prescribed in subsection (1) of KRS 160.490, the rate of the ad valorem tax.

(2) The tax levying authority shall make its annual school levy during April, unless the authority is required by law to make all of its levy, including the school levy, at a different time of the

year. The failure of the authority to make the levy within the date prescribed shall not invalidate any levy made thereafter.

(3) All school taxes shall be levied on all property subject to local taxation in the jurisdiction of the tax levying authority. The clerk of each county and the clerk of each city shall certify to the school district or districts which the county or city embraces the total assessed valuation of property subject to local taxation in the school district, as determined by its tax assessor.

Boundaries of school district to be furnished to railroad or bridge company to enable it to determine tax due, KRS 136.190.

Common school fund, distribution of, Const. 186; Ch. 157, KRS.

Department of Revenue to certify to county clerk the portion of corporate franchises or tangible property subject to local taxation, KRS 136.180.

Lien for taxes, KRS 134.420.

Penalties for violation of law as to millers' tolls to be paid to county school fund, KRS 363.990.

Property of dissolved religious society to go to county school fund, KRS 273.130.

Property subject to local taxation, KRS 132.150, 132.190, 132.200, 136.180, 136.200, 136.270, 136.280.

Surplus in county livestock fund to be paid to county school fund, KRS 258.340.

Fiscal Court of Monroe County v. Board of Education, Monroe County, 294 Ky. 758. To qualify for receiving equalization fund board of education must have maximum poll tax as well as the tax on bank shares and ad valorem tax. (June 22, 1943.)

Board of Education of Kenton County v. Highland Cemetery, 292 Ky. 374. Board of education must spend funds for purposes for which they were voted or levied. Where board used funds for general purposes which were collected over and above what was needed for bonds and did not pay bonds it cannot refuse to pay bonds when due, etc. (December 8, 1942.)

City of Paducah, et al. v. Board of Education of Paducah, 289 Ky. 284. Board of Commissioners of second class city properly refused to levy a tax for school purposes at a rate which would produce more revenue then set out in its budget which deducted amount of taxes the board of education anticipated would not be collected. (January 27, 1942.)

Duke, White, Mayor, et al. v. Board of Education of the City of Maysville, 263 Ky. 1. Held that the city council should make the levy requested by the board. (February 28, 1936.)

Allen County Fiscal Court v. Allen County Board of Education, 242 Ky. 546. Fiscal court must make the tax levy demanded by the county board of education in absence of bad faith or illegal items in the budget. (February 23, 1932.)

Hockensmith v. County Board of Education of Franklin County, 240 Ky. 76. Board of education only an administrative body with no power to levy and collect taxes. Since board of education could have procured levy sufficient to pay indebtedness, it is not authorized to incur an indebtedness where board did not request increased levy. Bond issue to fund floating indebtedness held unauthorized. (Ky. Stat. 4399a-8, KRS 68.110, 68.990, 92.360, 92.990, Sec. 157 Const.) (June 19, 1931.)

160.470 [4399-40] **School Budget.**—(1) Each board of education shall prepare a school budget, showing the amount of money needed for current expenses, debt service, capital outlay, and other necessary expenses of the schools during the succeeding fiscal year, also the estimated total amount that will be received from the common school fund and the amount that will be needed to be raised by local taxation, including the rate of levy necessary to raise such an amount. A copy of the budget shall be filed with the clerk of the tax levying authority of the district on or before March 20. At the same time a copy of the budget shall be filed with the State Board of Education for its approval. The clerk shall present the budget

to the proper tax levying authority when the authority convenes to make its school levy. The failure of the board of education to furnish the budget within the date prescribed shall not invalidate any levy made thereafter.

(2) Each board of education shall, if required by the State Board of Education, prepare and submit to it not later than fifteen days after the state per capita has been officially declared, a close estimate or working budget which shall conform to the rules and regulations prescribed by the State Board of Education, and which shall be consistent in its major divisions with the general budget previously prepared.

Blancett v. Leet, et al., 297 Ky. 141. Where board of education made no expenditures in excess of those shown by budget and floating indebtedness was the aggregate of annual deficiencies in tax collection, plus interest accumulated thereon, the floating indebtedness was not incurred in excess of "income and revenue" within constitutional provision establishing maximum indebtedness and therefore the indebtedness was fundable. (March 24, 1944.)

Ebert v. Board of Education of School District of City of Newport, et al., 277 Ky. 633. In order to establish validity of indebtedness records in office of Superintendent of Public Instruction should show the same situation as record submitted to the court. (March 24, 1939.)

Lawson v. Board of Education of Greenup County School District, 265 Ky. 630. Board of education may refund valid debt. (October 16, 1936.)

Madison County Board of Education v. Madison County Fiscal Court, 246 Ky. 201. County board of education is judge of needs of school districts and rate of taxation to be levied to meet board's requirements. Fiscal court must make levy demanded within statutory limits in absence of bad faith or inclusion of illegal items in budget. Where board demands rate patently insufficient to meet budget requirements, fiscal court must make adequate levy within statutory limits. Indebtedness of board caused by fiscal court's failure to fix sufficient rate held legally incurred and properly included in budget for subsequent year. (November 4, 1932.) (See rehearing of June 2, 1933.)

McCreary County Fiscal Court v. McCreary County Board of Education, 236 Ky. 149. (1) Board of education presenting budget to fiscal court held equivalent to submission to county clerk, he being ex officio clerk of fiscal court. (2) Where budget showed 75 cents levy was necessary in school district, fiscal court improperly fixed levy at fifty cents, though school could not be maintained in view of revenue for eight months, where state board of education approved shorter term. (November 21, 1930.)

County Board of Education of Marshall County v. Fiscal Court of Marshall County, 229 Ky. 774. Fiscal court must levy a tax for school purposes within the limits of law sufficient to take care of the budget submitted by the county board of education, if the budget is fairly made up and contains items allowable under the law. (May 28, 1929.)

160.475 Ad Valorem Tax for School Purposes, Minimum and Maximum Rates; Poll Tax; Subdistrict Taxes Abolished.—(1) The ad valorem tax levy for school purposes, other than sinking fund purposes, in each school district, shall be not less than twenty-five cents annually on each one hundred dollars of property subject to local taxation nor more than one dollar and fifty cents annually on each one hundred dollars of property subject to local taxation.

(2) The board of education of any district may request the levy of a poll tax, not exceeding two dollars on each male inhabitant within the district over twenty-one years of age who is not exempt by law from payment of poll tax.

(3) All existing subdistrict school tax levies, except those required to retire voted bonds, are hereby abolished. (1946, c. 36, §§ 1 (1), (2), 2)

City of first class may levy tax for school building fund, KRS 162.390.

City of first class may levy tax for support of municipal university, KRS 165.030.

Sinking fund purposes, tax levy for, KRS 162.080 to 162.100.

Commonwealth for Use and Benefit of McCreary Board of Education, et al. v. Cincinnati, N. O. & T. P. Ry. Co., 246 Ky. 684. Fiscal court's action in levying school tax must be regarded as having been taken on sufficient information authorizing court'c exercise of discretion. Board's failure to maintain school standards anticipated by law, or properly spend money, could not affect validity of fiscal court's levy of tax. (Decided December 16, 1932; modified January 24, 1933.)

Newell, et al. v. Cincinnati, N. O. & T. P. Ry. Co., 246 Ky. 628. Fiscal court must make levy recommended in good faith by board of education to produce revenue to cover all legal items. If levy requested by board is insufficient to maintain schools, fiscal court must provide adequate tax. Board's failure to maintain school standards anticipated by law or to properly spend money, could not affect validity of fiscal court's levy of tax. Board of education must comply with statute to compel fiscal court to make levy board regards necessary for school purposes. Maintenance of eight months' term or in alternative shorter term with consent of State Board of Education, held not requisite condition for levying of school tax in excess of fifty cents. (October 11, 1932.)

Madison County Board of Education v. Madison County Fiscal Court, 246 Ky. 201. County board of education is judge of needs of school districts and rate of taxation to be levied to meet board's requirements. Fiscal court must make levy demanded within statutory limits in absence of bad faith or inclusion of illegal items in budget. Where board demands rate patently insufficient to meet budget requirements, fiscal court must make adequate levy within statutory limits. Indebtedness of board caused by fiscal court's failure to fix sufficient rate held legally incurred and properly included in budget for subsequent year. (November 4, 1932.) (See rehearing of June 2, 1933.)

Fiscal Court v. Board of Education, 191 Ky. 263, 230 S. W. 57. Mandamus may issue to compel the calling of a special term of the fiscal court and the making of a levy under this statute.

160.476 School Building Fund; Tax for; Other Resources; Investment; Expenditures; Audit.—(1) The board of education of any district may, in addition to other taxes requested for school purposes, request the levy of not less than four cents nor more than twenty cents on each one hundred dollars valuation of property subject to local taxation, to provide a special fund for the purchase of sites for school buildings, for the erection and complete equipping of school buildings, and for the major alteration, enlargement and complete equipping of existing buildings, provided, however, that such tax shall come within the maximum school tax levy provided by KRS 160.475. In addition to or in lieu of this special tax, any board of education may pay into this special fund at the close of any fiscal year the proceeds from the sale of land or property no longer needed for school purposes and all or any balances remaining in the general fund over and above the amount necessary for discharging obligations for the fiscal year in full.

(2) The special fund provided for herein shall be kept in a separate account designated as "School Building Fund." The fund shall be kept in the despository selected by the board of educa-

tion, or invested in bonds of the United States, of this state, or county or municipality in this state, provided however, that such investments shall be approved by the State Board of Education.

(3) All expenditures from such fund shall be made solely for the purposes enumerated herein and shall be made in accordance with the school laws of the state at such times as the board of education determines. The board of education shall cause to be made annually an audit of the building fund by a certified public accountant or by an accountant approved by the State Department of Education. (1946, c. 36, § 1 (3))

160.500 [4399-40; 4399-41] **Collector of School Taxes; Allowances to; Special Collector; Tax Bills.**—(1) School taxes shall be collected by the regular tax collectors for the tax levying authorities that make the school levies for the various school districts, at the same time and in the same manner as other local taxes are collected, except as provided in this section and in KRS 160.510. The bond of the regular tax collector shall be made to cover his duties as the tax collector of the school district or districts for which he collects taxes. The tax collector shall be entitled to a fee at the rate of four percent for the collection of school taxes, which fee may be charged only for collecting or receiving school taxes or school funds received from the local school levy. No allowance shall be made for the collection of school taxes to any collecting officer who continues to collect taxes after his term that would not be allowed him had he collected the taxes during his term.

(2) An independent school district may select a special tax collector to collect its school taxes, and in the event such independent school district does so select a special tax collector, a majority of the members of the independent school district board of education shall fix a fee for such special tax collector at a rate of not less than one percent nor more than four percent of the school taxes or school funds collected by such special tax collector from the local school levy in such independent school district. The special tax collector shall be required to execute bond in the same manner as provided in KRS 160.560 for the execution of a treasurer's bond, and the penal sum of the bond shall not be less than the aggregate of the tax bills that come into the hands of the special tax collector.

(3) The clerk shall include all school taxes on the regular tax bills furnished the tax collector except in case an independent

district has selected a special tax collector, in which case the school taxes shall be listed by the clerk on a separate bill. The clerk shall be allowed a fee not to exceed three cents for each separate school tax bill, to be paid by the independent district board of education. (1946, c. 143)

County clerk to calculate taxes due school districts, KRS 132.550.

Russell County Board of Education v. Leach, Sheriff, et al., 288 Ky. 769. The 1934 amendment to law for sheriff's bond covers all bonds executed by the sheriff. Failure to give proper notice precludes collections under bond but does not preclude recovery from sheriff under statutory and common law obligations to pay over all school taxes properly collected. (November 14, 1941.)

Board of Education of Newport v. City of Newport, et al., 283 Ky. 215. Where discretion is vested in city treasurer as to manner of collecting delinquent taxes mandamus would not lie to compel treasurer to collect in a particular manner, etc. (May 24, 1940.)

Mt. Vernon Independent Graded School Dist., et al. v. Clark, et al., 281 Ky. 230. Where no officer had been appointed to collect taxes sheriff was by virtue of his office "collector of school taxes" and sureties on bond were liable for shortage. (January 12, 1940.)

Phillips, Ex-Sheriff v. Warren County Board of Education, 265 Ky. 580. Sheriff entitled to only one per cent for collecting taxes. (October 13, 1936.)

Board of Education of Paducah v. City of Paducah, et al., 261 Ky. 549. City held not liable for delinquent taxes, interests, and penalties due on assessment to the board of education. City is liable for taxes, interests, and penalties collected. (December 3, 1935.)

Shively v. Edwards, Sheriff, 252 Ky. 789. Sheriff, selected as collector of grade and common school taxes, need not execute separate bond to school district board of trustees. (Ky. Statutes, section 4476) School district board of trustees permitting county clerk to prepare tax receipts and deliver them to sheriff for collection and paying clerk therefor, impliedly selected sheriff as collector of taxes for district. (Sec. 4476, Ky. Stat.) Collector of school district taxes must be elected before tax receipts are delivered to sheriff and in no event after September 1st of year in which taxes are due. (Sections 4476, 4476a-1, Ky. Statutes) Sheriff must act as collector of school taxes, if district board of trustees fails to elect collector by September 1 of year in which taxes are due or before receipts therefor are delivered to sheriff by county clerk. (Ky. Stats., scs. 4476, 4476a-1.) (February 13, 1934.)

Commonwealth, for Use and Benefit of Phillips, County Treasurer, et al. v. Tate, et al., 247 Ky. 517. In action to charge sheriff with failure to pay over amount of settlement due the county school board, amount with which sheriff was properly chargeable must first be ascertained by records in county court clerk's office, which must stand as correct, unless impeached in proper manner. (Sections 132.420, 133.020, 133.050, 133.080, 133.220 and 134.140, KRS) Mistake in assessment may be corrected by county court under statute, but if not corrected thereunder, sheriff is responsible for amount for which he receipts to county clerk. (Section 133.110, 133.130, KRS.) (February 17, 1933.)

Cassady v. Oldham County, et al., 246 Ky. 773. Statute providing that commission allowed sheriff for collection of local school taxes shall not exceed one per cent of total tax collected held not unconstitutional as revenue raising statute because of having originated in Senate. (Ky. Statutes, 1930, Section 4399a-8; Constitution, Sec. 47.) (January 13, 1933.)

Livingston County, et al. v. Dunn, et al., 244 Ky. 460. Tax books made by county clerk and sheriff's receipt are conclusive against sheriff and county, sheriff must account for taxes shown thereby, unless exonerated as prescribed by law. Former sheriff, who after expiration of term, received money due county on road fund, held chargeable therefor. Sheriff held entitled to only one per cent commission for collecting school taxes. (June 14, 1932.)

Bell County Board of Education v. Lee, 239 Ky. 317. County board had power to employ auditor for sheriff's books to discover money due board on contingent fee basis. Auditor's fee on this basis does not include money which sheriff voluntarily paid. (May 26, 1931.)

Breathitt County Board of Education v. Cockrell, et al., 238 Ky. 694. County board held entitled to recover amount in sheriff's hands after settlement, with interest and penalty. Delivery and receipt of sheriff's check for school taxes constituted no payment of amount in excess of sum paid by bank thereon after treasurer's alteration of amount. (May 5, 1930.)

Bush, et al. v. Board of Education of Clark County, 238 Ky. 297. Such proceedings may be brought against the sheriff in the collection of school taxes as will bring about a settlement under the statutes governing the matters. (March 6, 1931.)

Clarke v. Commonwealth for Use of Rockcastle County Board of Education, 233 Ky. 728. In action by county school board against sheriff to surcharge his settlements because sheriff in settlements was charged nothing for interest on amount of tax money he paid over after December 1 of each year, where there had never been any settlement between school board and sheriff so that he would know what he should pay school board. School board's claim was unliquidated, and sheriff was not liable for interest on money until settlement was made (under Ky. Stat., sections KRS 134.310, 134.300, 134.990, 134.020). Interest does not run ordinarily upon unliquidated demands. (February 4, 1930.)

Co. ex rel. Hewlett, et al. v. Towery, Sheriff, et al.; Same ex rel. Caldwell County Board of Education v. Towery, Sheriff, et al., 232 Ky. 802. In suit by taxpayers to recover school taxes collected by sheriff, where sum due common school fund was never certified to county board and tax books did not show whether taxpayers were in grade or common school districts and they contained many errors growing out of duplicate settlements and erroneous lists, both as to property and polls. Commissioner to whom case was referred held to have properly made settlement by reference to cash books kept by sheriff, where cash books correctly reported every dollar collected from every source due common school fund. (December 17, 1929.)

Board of Education of City of Jackson v. Caudill, et al., 228 Ky. 652. Sheriff is tax collector of school taxes levied by the county, and the city tax collector is the collector of taxes levied in the city, so that duty of sheriff to collect such taxes and liability to school district was unaffected by subsequent extension of the boundaries of a city to include territory comprised within school district. (March 22, 1929.)

Fidelity and Deposit Co. of Maryland v. Christian Co. Bd. of Education, 228 Ky. 362. Fiscal court without authority to release surety on sheriff's bond from liability to school board for amount of commissions retained by sheriff in excess of commission allowed for collection of school taxes. The school tax is separate and distinct from county tax. The members of the county board of education are state officers and not county officers. (February 8, 1929.)

Owen County Board of Education v. Kemper, Sheriff, 197 Ky. 407. Fee of sheriff in collection of county school taxes is 1% of the amount collected, this to be retained from the funds collected. Intention of the legislature was to place entire burden of cost for collecting the county school tax upon the proceeds of such tax, and thus to impose the burden of paying for its collection upon the persons and property receiving the benefits of the tax, and to relieve the county as a whole from the burden.

Fishback v. Trustees of Graded School District No. 47, 152 Ky. 519, 153 S. W. 748. The acts of de facto school trustees in levying a graded common school tax cannot be collaterally attacked in a taxpayer's injunction suit to enjoin the collection of the tax on ground that the trustees were not properly elected.

160.510 [4399-40] **Taxes Paid to Depository; Reports of Tax Collector.**—The tax collector shall, on or before the tenth day of each month, pay to the depository of the district board of education the amount of school tax collected up to and including the last day of the preceding month. The amount so paid together with the classes of property from which it was received shall be reported in writing to the treasurer of the board. The report shall be accompanied by a duplicate of the receipt for the money given to the tax collector by the depository. The tax collector shall make final settlement with the district board of education at the same time he makes final settlement with the local taxing authority to which he is responsible. Blanks for such purposes shall be furnished by the State Board of Education.

160.520 [4399-40] **Penalties for Tax Delinquency; General Laws Apply.**—The laws applying to penalties on and the collection of delinquent school taxes shall be the same as the general laws applying to penalties on and the collection of delinquent taxes of the taxing districts which embrace the various school districts.

Taxes on corporate franchises, when due, KRS 136.180.
Taxes on railroad bridge, when due, KRS 136.050, 136.990.

City of Pineville v. Board of Education of Pineville Independent School District, 272 Ky. 636. Penalties and interest on taxes collected by fourth class cities on school taxes must be paid to the board of education. (May 5, 1938.)

160.530 [4399-40] **Use of School Money.**—The money collected by taxation under the provisions of KRS 160.460 to 160.520 and other school money shall be expended by the board of education in accordance with the recommendations contained in the budget submitted to the tax levying authority. One-half of the money raised by the tax levy shall be used for supplementing teachers' salaries if that amount is necessary to pay all teachers the minimum salary provided by law. After that minimum has been reached the money may be used as provided in the properly adopted budget. The amount necessary, as well as the levy necessary, for supplementing teachers' salaries and for other school purposes must be itemized in the budget submitted by the board of education to the tax levying authority at the time the request for the levy is made.

Agricultural extension work, appropriations may be made from school funds for, KRS 247.080.
Conferences of school officials, expenses of to be paid from school funds, KRS 156.190.
Financial matters to be reported to State Board of Education, KRS 157.060..
Minimum salary for teachers, KRS 161.150.
School district not to lend credit or become stockholder in corporation, Const. 179.
State school fund, distribution of, Const. 186; Ch. 157, KRS.
Superintendent of Public Instruction to supervise accounts of local boards, KRS 156.160, 156.200.

Board of Education of Kenton County v. Highland Cemetery, 292 Ky. 374. Board of education must spend funds for purposes for which they were voted or levied. Where board used funds for general purposes which were collected over and above what was needed for bonds and did not pay bonds it cannot refuse to pay bonds when due, etc. (December 8, 1942.)

160.540 [4399-44] **Power to Borrow Money in Anticipation of Taxes.**—Any board of education may borrow money on the credit of the board and issue negotiable notes in anticipation of revenues from school taxes for the fiscal year in which the money is borrowed, and may pledge the school taxes for the payment of principal and interest on the loan. The rate of interest charged shall not exceed six percent per annum, and the principal shall not exceed seventy-five percent of the anticipated revenue for the fiscal year in which it is borrowed. In all cases such loans shall be repaid within the fiscal year in which they are borrowed.

Banks not limited in loans to school districts, KRS 287.290.
Bonds, power to issue, KRS 162.080 to 162.100, Ch. 66.

Note.—Amended in effect by Sec. 287.280 KRS, as amended by chapter.

Begley, et al. v. George E. Dum Co., 293 Ky. 351. Validity of claim against the board for school supplies was not challenged prior to time board entered into agreement with seller to settle original claim. Board should be held to agreement. (February 23, 1943.)

Emmons v. Board of Education of Lewis County, 260 Ky. 17. County board of education has authority to deed property to holding corporation with understanding it will be deeded back when bonds are paid. (June 11, 1935.)

Reneer v. Centertown Educational Corp., 253 Ky. 328. Educational corporation contract with the board of education held valid. (May 3, 1934.)

Hardin v. Owensboro Educational Association, 244 Ky. 390. Constitutional provision for creating debt by municipal corporation for a particular year cannot be defeated by the form of transaction. Here educational corporation was to assume a debt created beyond constitutional limit. (April 22, 1932.)

Kirkpatrick v. City Board of Education of Russellville, et al., 234 Ky. 836. Contract to sell school site to corporation with option to lease and re-purchase held valid and not violative of constitutional debt limitation. School building having been condemned by fire marshal, city board of education, to meet emergency, sold school site to corporation which agreed to erect school building thereon and to lease property to board from year to year, not exceeding twenty years, at annual rental within constitutional debt limit of board, which rent should be used to discharge bonds secured by mortgage on property used for construction of building, with option in board to require reconveyance on discharge of mortgages and all other liens and claims and providing that if board should not occupy premises for entire twenty years, property should be sold and proceeds used to pay liens, and to pay surplus to board. (June 17, 1930.)

Nelson v. Board of Education of City of Williamsburg, 213 Ky. 714. Burning of schoolhouse held not to create an emergency within Constitution, section 158, validating bond issue for erection of another in excess of two per cent of assessed valuation of property in district. After limiting such indebtedness to two per cent, construes unless in case of emergency the public health or safety should so require. Court says, "Before this exception can be invoked it must plainly appear that the additional expenditure is required for the public health or safety." (March 23, 1926.)

Waller v. Georgetown Board fo Education, 209 Ky. 726. Section 3287a-16, investing the board of education with power to borrow money in anticipation of taxes, constitutes a limitation on the actual borrowing of money, and not on the power to incur an indebtedness or obligation. (June 19, 1925.)

City of Dayton v. Bd. of Cy. of Dayton, 201 Ky. 566. Indebtedness of a municipality is not to be taken into account in estimating the indebtedness of the school board of the district which covers the same territory. A municipal taxing district is subject to the imposition of a tax by one sovereignty, a city, while a different sovereignty, the board of education, may upon its own account levy another although the two cover and include the same territory and property. (November 11, 1923.)

Elliott County Fiscal Court v. Elliott County Board of Education, 193 Ky. 66, 234 S. W. 947. The county board of education is a body politic and corporate with perpetual succession, and therefore a debt created by the board is a continuing obligation of the board regardless of any change in its membership, and no question of assumption of indebtedness which an old board contracted can arise. Where the county board of education prepares and submits to the fiscal court a detailed expense budget for the succeeding year, it is incumbent on the fiscal court to make a levy for the amount required unless the board acted corruptly or in bad faith, or embraced in their expenditures items not authorized by law. A budget of the county board of education filed with the fiscal court may include outstanding indebtedness.

160.550 [4399-45] **Budget Not to be Exceeded.**—No superintendent shall recommend and no board member shall vote for an expenditure in excess of the income and revenue of any year, as shown by the budget adopted by the board and approved by the State Board of Education, except for a purpose for which bonds have been voted or in case of an emergency declared by the State Board of Education.

Duke White, Mayor, et al. v. Board of Education of the City of Maysville, 263 Ky. 1. Held that the city council should make the levy requested by the board. (February 28, 1936.)

Downey v. Board of Education of Logan County, et al., 243 Ky. 66. County board of education cannot bond indebtedness incurred in replacing burned school building, even though the indebtedness was validly created after application to fiscal court for levy. (March 11, 1932.)

160.560 [4399-42] **Treasurer of Board of Education; Appointment; Bond; Duties.**—(1) Each board of education shall elect a

treasurer for the board. The board may elect its secretary to serve as treasurer. The board may remove the treasurer from office at any time for cause by a vote of three members of the board.

(2) The treasurer shall execute an official bond for the faithful performance of the duties of his office, to be approved by the local board and the State Board of Education. The bond shall be guaranteed by at least three solvent personal sureties whose solvency must exceed the amount of the bond, or by a surety company authorized to do business in this state, and shall be in an amount determined by the board of education in accordance with the rules and regulations of the State Board of Education. If the treasurer is required to execute a surety company bond, the premium on the bond shall be paid by the board of education. A copy of the bond shall be filed with the board of education and with the State Board of Education. All treasurer's bond forms shall be prepared by the Superintendent of Public Instruction and approved by the State Board of Education.

(3) The treasurer shall receive all moneys to which the board is entitled by the Constitution or by the statutes, except as otherwise provided by law, or which may in any way come into its possession, and deposit such funds in the properly designated depository. He shall withdraw such funds from the depository only upon proper order of the board. He shall keep a full and complete account of all funds in such manner and make such reports concerning them as is required by the board of education or by the State Board of Education. He shall preserve all records relating to the transactions and duties of the office and turn them over to his successor along with all public funds in his hands and all accounts and records after due and proper audit is made by a competent outside agent when he is required to do so by the board of education.

(4) A copy of a list of all items and accounts that the board of education has ordered paid shall be certified to the treasurer by the board and shall be signed by the chairman and secretary of the board, and a certified copy of such list shall be furnished the depository by the secretary of the board. The treasurer shall issue his check on the depository for each item or account on the list certified by the chairman and secretary of the board.

Bonds of public officers, conditions, recovery on, KRS 62.060 to 62.080.
Employes of boards of education exempt from jury service, KRS 29.030.
Miller, et al. v. Rockcastle County, 248 Ky. 291. County treasurer's bond held valid, as against contention that it was invalid because no penal sum was

fixed by fiscal court. Failure of court, board or officer to approve or file official bond will not affect its validity because government is not responsible for laches or wrongful acts of its officers. County treasurer's sureties held not liable for any default occurring during period treasurer held over after expiration of term. (March 21, 1933.)

Citizens' Bank of Morehead v. Rowan County Board of Education, 245 Ky. 384. Bank could not apply county school funds held by it as treasurer of county board of education to matured debt of board. As such treasurer bank and its sureties were responsible for all funds of county board of education under Ky. Stats., sec. 4399a-3, and had authority to pay out such funds only on appropriations ordered by a majority of board, of record signed by chairman and secretary of board under sections 4399a-3 and 4399a-5, Ky. Stats. (October 11, 1932.)

Edwards, et al. v. Logan County, 244 Ky. 296. "County Treasurer" and his surety held not liable for loss of funds caused solely by failure of depository selected by fiscal court. (March 1, 1932.)

U. S. Fidelity and Guaranty Co. v. Board of Education of City of Maysville, 228 Ky. 426. Not necessary for bond to be signed by principal. When the intention of the company is shown, the instrument is binding. (March 12, 1929.)

160.570 [4399-43] **Depository of Board; Bond; Duties.**—(1) Each board of education shall appoint a bank or trust company to serve as its depository, and if its annual receipts from all sources exceed one hundred thousand dollars it may designate two depositories. The depository may be designated for a period not to exceed two years, and before entering upon its duties shall agree with the board as to the rate of interest to be paid on average daily or monthly balances.

(2) The depository selected shall, before entering upon its duties, execute bond for the faithful performance of its duties, to be approved by the local board of education and the State Board of Education. The bond shall be guaranteed by at least five solvent personal sureties whose solvency must exceed the amount of the bond, or by a surety company authorized to do business in this state, or through the execution of a collateral bond consistent with the general banking laws of the state and the bonding laws applying to the safeguarding of state funds. The penal sum of the depository bonds shall be determined by the board of education in accordance with the rules and regulations of the State Board of Education. A board of education may enter into an agreement with its depository whereby the premium on a bond guaranteed by a surety company may be paid either by the board or by the depository. If the board pays the premium, the depository shall allow the board not less than two percent interest on its average daily or average monthly balances. All depository bond forms shall be prepared by the Superintendent of Public Instruction and approved by the State Board of Education.

(3) The depository shall hold for the board all funds deposited by the treasurer of the board or its tax collector or duly authorized agent, subject to withdrawal by the board at any time,

and shall pay all funds so deposited to such person and in such manner as the board directs. The depository shall keep full and complete accounts of all of the board's funds, and make reports to the board or its authorized agents upon request. The depository shall keep all records relating to the transactions and duties of the office and turn them over to the successor of its office along with all school funds in hand. The board of education may at any time require a due and proper audit of the depository's records of the funds of the board by a competent outside agent.

(4) A board of education may designate as its depository the authorized and bonded depository of the governing authority of the territory which the school district embraces. In such cases, the bond of the depository shall be made to cover specifically the safekeeping of the school board's funds, and all conditions set out in this section shall be carried out.

Bonds of depositories of public funds, conditions, recovery on, KRS 62.060 to 62.080.

Phillips, et al. v. Board of Education of Pineville, 283 Ky. 173. Where board of education sought to recover on depository bond where erasures and changes in instrument had been made burden was upon plaintiff claiming benefit to prove alterations were made before its execution by the sureties or if subsequent by agreement. (March 5, 1940.)

Edwards, et al. v. Logan County, 244 Ky. 296. "County Treasurer" and his surety held not liable for loss of funds caused solely by failure of depository selected by fiscal court. (March 1, 1932.)

Harlan County v. Blair, et al., 243 Ky. 777. Court forbid an officer to receive compensation for services which the law had not expressly fixed therefor.

U. S. Fidelity and Guaranty Co. v. Board of Education of City of Maysville, 228 Ky. 426. Not necessary for bond to be signed by principal. When the intention of the company is shown, the instrument is binding. (March 12, 1929.)

160.580 [4399-57] **Gift, Grant or Devise to School Board.**—All sums arising from any gift, grant or devise by any person wherein the intent is expressed that the same is to be used to aid in the education of white or colored children in any school district in this state shall be held and used for the purposes specified in the gift, grant or devise. The district board of education shall receive the gift, grant or devise for the benefit of the white or colored schools of its district and shall hold and use it as requested by the donor or devisor, provided that the purpose for which it is used shall be in harmony with the aims and general program of public education in this state.

Board of Education of Guthrie Independent Graded School Dist. v. Todd County Board of Education, et al., 289 Ky. 803. Where board of education is naked trustee of property the benefit of colored district or people, the colored district, as equitable owner, was entitled to the proceeds of an insurance policy as against claim that policy was a personal contract insuring to the benefit of the board of education. (March 13, 1942.)

160.590 [4399-60] **Special Funds; Disposition of.**—A board of education of a district owning a fund from which it is to receive

only the income may, if there is no constitutional or other lawful provision to the contrary, convert the same to its general school fund. If two or more districts are entitled to the income of the same fund, they may by concurrent action divide the fund between them in proportion to their census enumeration.

160.600 [4399-58] **Accepting Bribe for Employment of School Employe.**—Any person, board of education, board of regents, board of trustees or other board of control of any public school system, or agent thereof, having authority to employ, vote for employment or recommend for employment any teacher or other person, who accepts, either directly or indirectly, for the employment of a teacher or other school employe any valuable consideration other than the services of the teacher or other person employed shall be punished in the same manner as is provided in KRS 432.350 for persons accepting bribes.

160.610 Fort Knox Independent School District.—For the purpose of KRS 186.015 only, the Fort Knox Military Reservation, by and with the consent of the War Department of the United States, be and the same is hereby set apart, established and created a separate school district, to be designated and known as the "Fort Knox Independent School District."

The Commanding Officer of the Fort Knox Military Reservation, is hereby authorized and empowered to establish, maintain and conduct, a grade and high school for the said Fort Knox Military Reservation. (1944, c. 26.)

160.620 Independent School District at Louisville and Jefferson County Children's Home.—Any city and county children's home established and maintained in accordance with the provisions of KRS Chapter 201 and the grounds owned or leased and lawfully maintained by the board in connection with said home, shall constitute an independent school district. Any school or schools consisting of the elementary and high school grades maintained in connection with said home shall be recognized as public schools, and they and the teachers and pupils therein shall have all the rights and privileges granted by law relating to public schools, teachers and pupils in independent school districts. The school district shall be designated and known as the Independent School District of the ..... (Name of city) and ..... (Name of county) County Children's Home. The schools maintained in such district and the administration thereof shall be sub-

ject to the law governing independent school districts of the state, and the rules and regulations of the State Board of Education relating thereto, with the following exceptions:

(1) The board created and appointed under KRS 201.020 shall serve as the board of education for such independent school district.

(2) The superintendent of the home appointed and acting under KRS 201.030 shall serve as the superintendent of schools for such independent school district.

(3) The schools of such district shall be financed from a portion of the funds derived from taxes levied in accordance with KRS 201.170 and from all such other funds as may be received for school purposes from state, federal or other sources.

(4) For the purpose of reporting the school census to the Superintendent of Public Instruction, as prescribed by KRS 159.260, all children who have been duly committed or received and who on June 1 of any year are being maintained at said home, shall be considered as residing in said independent school district on said date. (1946, c. 198)

160.990 [4399-25; 4399-34; 4399-36; 4399-45; 4399-55] **Penalties.** —(1) Any person who violates any of the provisions of KRS 160.250 shall be fined not more than two hundred dollars.

(2) Any person who violates any of the provisions of KRS 160.300 shall be fined not less than ten nor more than fifty dollars.

(3) Any superintendent who violates any of the provisions of KRS 160.350 to 160.400 shall be fined not less than one hundred nor more than one thousand dollars for each offense, and the violation is grounds for revocation of his certificate.

(4) Any superintendent who violates any of the provisions of KRS 160.420 shall be fined not less than one hundred nor more than one thousand dollars for each offense.

(5) Any person who violates any of the provisions of KRS 160.550 shall be fined not less than fifty nor more than one hundred dollars, and shall be subject to removal from office.

Duff v. Chaney, et al., 291 Ky. 308. A teacher who is legally qualified for a position and who has been duly nominated by proper officer and whose name has not been withdrawn acquires a "vested right" to teach and to receive emoluments of employment. Such teacher may recover damages from members of the board and new superintendent individually. (April 21, 1942.)

CHAPTER VIII

SCHOOL EMPLOYES, TEACHERS' RETIREMENT AND TENURE

161.010 Definitions of terms used in KRS 161.020 to 161.130
161.020 Certificates required of school employes; to be filed; validity of certificates issued under former law
161.030 Certification authority
161.040 General qualifications for certificates
161.050 Kinds of certificates issued
161.060 Elementary certificates; provisional and standard
161.070 High school certificates; provisional and standard
161.080 Administration and supervision certificates; provisional and standard
161.090 Attendance officers' certificates
161.100 Emergency certificates
161.110 When certificates to be renewed
161.120 Revocation of certificates
161.130 Fees for certificates

REGULATIONS AS TO SCHOOL EMPLOYES

161.140 Duties of school employes prescribed by board of education
161.150 Minimum salary for teachers
161.170 Teachers to enforce course of study and use of books; removal for failure
161.180 Teachers responsible for pupils' conduct
161.190 Abuse of teacher prohibited
161.200 Records to be kept by teachers
161.210 Reports to be made by teachers

TEACHERS' RETIREMENT

161.220 Definitions of terms used in KRS 161.230 to 161.710
161.230 Retirement system; purpose; name
161.240 Districts, institutions and offices included in system
161.250 Board of trustees to control retirement system; membership
161.260 Election of members of board of trustees; term
161.270 Vacancies; how filled
161.280 Oath of board members
161.290 Compensation and expenses of board members; office quarters
161.300 Quorum
161.310 Rules and regulations
161.320 Record of proceedings; annual report
161.330 Cost of administration; how paid
161.340 Chairman and secretary of board; personnel of system
161.360 Workmen's compensation and unemployment compensation may be adopted for employes.
161.370 Treasurer, auditor and legal adviser of board
161.380 Duties of treasurer
161.390 Actuarial data to be kept
161.400 Actuary; employment; duties
161.410 Medical director; employment; duties
161.420 Funds of the retirement system
161.430 Investment of funds
161.440 Interest on funds; disposition of
161.450 Cash on deposit
161.460 Interest in investments; trustees and employes not to have
161.470 Membership of retirement system

161.480 Statement to be filed on becoming member
161.490 Investigation of statement; issuance of certificate
161.500 Prior-service certificates; issuance of
161.510 Prior service allowed new members
161.515 Out-of-state service credit; teachers in noneducational state institutions authorized to come into retirement system.
161.516 Teachers in noneducational state institutions authorized to come into retirement system
161.520 Termination of membership
161.530 Forfeiture of claim
161.540 Member's contribution to system
161.550 State's contribution to system
161.560 Deduction of teachers' contributions; employing agency to make
161.570 Reports by employing agency
161.580 Individual accounts to be kept; other data
161.590 Service credited at retirement
161.600 Retirement; conditions of
161.610 Withdrawal after thirty years; continuation of contributions; benefits
161.620 Retirement allowances; amount of
161.630 Benefit options
161.640 Payment of annuities; time of
161.650 Death of retired member; payment to estate
161.660 Disability allowance
161.670 Disability to be established by medical examination
161.680 Mistake in payment; correction of
161.690 Falsifying record prohibited
161.700 Taxation and process; funds and rights under system exempt from
161.710 Local system merged with state system; provisions concerning
161.720 Definitions for Teachers' Tenure Law
161.721 Superintendent eligible for continuing contract status
161.730 Limited or continuing contracts with teachers required
161.740 Eligibility for continuing service status; reemployment of those eligible; reinstatement after war service
161.750 Limited contracts; when to be entered into; reemployment on expiration; period of contract
161.760 Salaries of teachers; notice of; increase or reduction
161.770 Leaves of absence
161.780 Termination of contract by teacher or superintendent
161.790 Termination of contract by board; channels for; procedure; suspension pending trial; appeal
161.800 Suspension of contracts on reducing number of teachers
161.810 Continuance of status in case of annexation or consolidation of schools
161.821 Definitions for KRS 161.822 to 161.837
161.822 Board of education in city of second class authorized to establish civil service system for noninstructional employes; petition; resolution; creation of commission
161.823 Civil service commission; membership; appointment; term; vacancies; compensation; meetings; quorum
161.824 Employes of commission; appropriation for expenses
161.825 Noninstructional employes of board of education to be appointed from eligibility lists
161.826 Rules and regulations governing civil service system
161.827 Emergency appointments; promotions; classification of present employes
161.828 Tenure of employes; dismissal or suspension

161.829 Prohibition against solicitation or assessment, political activity or acceptance of compensation other than salary
161.830 Political or religious opinions not to be given consideration
161.831 Manual of instructions
161.832 Annual notice to employes of salary for coming year; increase or decrease of salary
161.833 Leave of absence
161.834 Transfer of employes to other positions
161.835 Corrupt action, impersonation or giving of false information forbidden
161.836 Giving of consideration for appointment or promotion forbidden
161.837 Prosecution of violations of KRS 161.821 to 161.836
161.990 Penalties

CERTIFICATION OF SCHOOL EMPLOYES

161.010 [4502-2] **Definitions of Terms Used in KRS 161.020 to 161.130.**—As used in KRS 161.020 to 161.130:

(1) "Standard college or university" means an institution that is a member of the Association of Colleges and Universities of the Southern States, the American Association of Teachers Colleges, or the Kentucky Association of Colleges and Universities, or that is recognized as an accredited four-year institution by the University of Kentucky.

(2) "Standard college or university work of graduate grade" means approved work in a standard college or university that has a program of work extending beyond four years of college or university work.

(3) "Semester" means eighteen weeks (one-half year) of standard college or university work.

(4) "Semester hour" means one academic or college hour per week for one semester.

161.020 [4502-6; 4502-10; 4502-11; 4503-2] **Certificates Required of School Employes; to be Filed; Validity of Certificates Issued Under Former Law.**—(1) No person shall be eligible to hold the position of superintendent, principal, teacher, supervisor, attendance officer, or other public school position for which certificates may be issued, or receive salary for services rendered in such position, unless he holds a certificate of legal qualifications for such position.

(2) No person shall enter upon the duties of a position requiring certification qualifications until his certificate has been filed or credentials registered with the board of education employing him.

(3) The validity of any certificate or license in force on June 14, 1934 is not impaired by the provisions of KRS 161.020 to 161.130, and such certificate or license shall be reissued or renewed in accordance with the terms of the law applying at the date of issue.

Richardson v. Bell County Board of Education, 296 Ky. 520. Positions of teacher and Asst. Supt. incompatible. (February 1, 1944.)

Martin v. Knott County Board of Education, 275 Ky. 483. Qualifications of applicant as teacher must be determined at the time he begins to fulfill contract and not at the time that application is made. (November 22, 1938.)

161.030 [4502-1] **Certification Authority.**—(1) The certification of all superintendents, principals, teachers, supervisors, attendance officers and other administrative, supervisory or instructional employes is vested in the State Board of Education. All certificates issued under KRS 161.010 to 161.130 shall be issued in accordance with the published rules and regulations of the State Board of Education through the Superintendent of Public Instruction.

(2) Certificates shall be issued, reissued and renewed to persons who have completed, at the state teachers colleges of Kentucky for white persons or at the College of Education of the University of Kentucky, the curricula prescribed by the Council on Public Higher Education and approved by the State Board of Education for the certificates.

(3) Certificates shall be issued to persons who have attended the state institutions for colored persons in accordance with law and in accordance with the rules and regulations of the State Board of Education.

(4) The State Board of Education shall approve the curricula of any standard college or university, or of any department thereof for the training of teachers, when the curricula comply with the rules and regulations of the State Board of Education and are equivalent to any or all the curricula prescribed for the state institutions for the issuance of certificates to students of the state institutions, and when the institution has otherwise met the terms and conditions provided in KRS 161.010 to 161.130. Any student of such institution who has completed any of these curricula or the equivalent thereof, as approved by the State Board of Education, and who in addition thereto has completed the prescribed requirements for the issuance of certificates for teaching to students of the state institutions may, by the State Board of Education, be granted a certificate for teaching of the same validity and tenure as certificates issued to students completing like requirements in the state institutions.

Daviess County Board of Education v. Vanover, 219 Ky. 565 and McLeod v. State, 122 S. W. 737. When a teacher has completed the qualifications required by the Commonwealth of Kentucky and is not otherwise unfit morally or in ill health, and meets the educational standard fixed by the county board of education, he has a right to teach in the common schools and that an attempt of the county board to prevent married women who meet the above qualifications from teaching in the county schools is unauthorized, and an abuse of discretion. (April 29, 1927.)

161.040 [4502-11] **General Qualifications for Certificates.**—No person shall receive or hold any certificate provided for in KRS 161.050 who does not present evidence of good moral character, or who is under eighteen years of age.

161.050 [4502-3] **Kinds of Certificates Issued.**—There shall be issued elementary certificates, high school certificates, certificates in administration and supervision, attendance officers' certificates and emergency certificates. Each certificate issued shall show on its face the curriculum the holder has completed for its issuance.

Conley, et al. v. Ousley, 251 Ky. 583. Teacher whose certificate expired before acquisition of second of two additional high school units necessary for renewal could not obtain renewal on subsequent acquisition of necessary unit. (December 5, 1933.)

Fugate v. Fields, 247 Ky. 603. Teacher, whose certificate expired before acquisition of additional scholarship necessary for renewal, could not obtain renewal on subsequent acquisition of necessary scholarship. (January 13, 1933.)

161.060 [4502-3] **Elementary Certificates; Provisional and Standard.**—(1) The elementary certificate is valid for use in any elementary school in this state.

(2) The provisional elementary certificate, valid for three years, shall be issued to a person who has completed a curriculum of sixty-four semester hours for the training of elementary teachers in a standard college or university, which curriculum meets the minimum standards prescribed by the State Board of Education for the issuance of such certificate. The certificate may be reissued or renewed after two years' teaching experience during the life of the certificate or upon the presentation of sixteen semester hours of additional standard college or university work earned during the life of the certificate and prescribed in the same manner as for the original issue, and may be renewed thereafter upon the presentation of sixteen semester hours of additional standard college or university work earned during the life of the certificate and prescribed in the same manner as for the original issue.

(3) The standard elementary certificate, valid for four years, shall be issued to a person who is a graduate of a standard four-year college or university and who has completed a curriculum of at least one hundred and twenty semester hours for the training of elementary teachers, which curriculum meets the minimum

standards prescribed by the State Board of Education for the issuance of such certificate. The certificate may be reissued or renewed every four years after three years' teaching experience during the life of the certificate or upon the presentation of one-half year of standard college or university work of graduate grade prescribed in the same manner as for the original issue. The standard elementary certificate may be extended for life upon the presentation of evidence of the holder having completed a standard four-year college or university curriculum of at least one hundred and twenty semester hours for the training of elementary teachers and in addition thereto one year of standard college or university work of graduate grade, prescribed in the same manner as for the original issue, and three years' teaching experience in the elementary field during the life of the certificate.

Richmond v. Lay, 261 Ky. 138. Provisions of Chapter 13, Acts 1934, that any teacher who had taught for more than twenty years prior to the effective date thereof should have life certificate issued held invalid as not within scope of Governor's call for the special Legislature to enact revenue measures or to make appropriations, as not relating to previous provisions of statutes providing for a charge of $2 on one year extension of teacher's certificate. (November 1, 1935.)

Simpson County Board of Education, et al. v. Bradley, et al., 246 Ky. 822. Holder of life certificate is entitled to teach without further examination and without requirements of scholastic training. (January 17, 1933.)

161.070 [4502-3] **High School Certificates; Provisional and Standard.**—(1) The high school certificate is valid for use in any high school in this state.

(2) The provisional high school certificate, valid for four years, shall be issued to a person who is a graduate of a standard four-year college or university and who has completed a curriculum of at least one hundred and twenty semester hours for the training of high school teachers, which curriculum meets the minimum standards prescribed by the State Board of Education for the issuance of such certificate. The certificate may be reissued or renewed every four years after three years' teaching experience during the life of the certificate or upon the presentation of one-half year of standard college or university work of graduate grade earned during the life of the certificate and prescribed in the same manner as for the original issue.

(3) The standard high school certificate, valid for five years, shall be issued to a person who is a graduate of a standard four-year college or university, has completed a standard four-year college or university curriculum for the training of high school teachers, and has completed one year of standard college or university work of graduate grade, all of which work meets the

minimum standards prescribed by the State Board of Education for the issuance of such certificate. The standard high school certificate may be extended for life upon presentation of evidence that the holder has had three years' teaching experience in the high school field during the life of the certificate.

Bracken County Board of Education, et al. v. Nickoson, 249 Ky. 419. Teacher must be designated as principal when employed in order for rule and law to apply to that party. (May 26, 1933.)

161.080 [4502-3] **Administration and Supervision Certificates; Provisional and Standard.**—(1) Certificates in administration and supervision are valid for use in any position of superintendent, principal, supervisor, teacher or attendance officer.

(2) The provisional certificate in administration and supervision, valid for four years, shall be issued to a person who has had at least two years' successsful teaching experience, is a graduate of a standard four-year college or university, and has completed a standard four-year college or university curriculum of at least one hundred and twenty semester hours for the training of administrators and supervisors, which curriculum meets the minimum standards prescribed by the State Board of Education for the issuance of such certificate. The certificate may be reissued or renewed every four years after three years' experience during the life of the certificate or upon presentation of one-half year of standard college or university work of graduate grade, prescribed in the same manner as for the original issue.

(3) The standard certificate in administration and supervision, valid for five years, shall be issued to a person who has had at least two years' successful teaching experience, is a graduate of a standard four-year college or university, has completed a standard four-year college or university curriculum for the training of administrators or supervisors, and has completed one year of standard college or university work of graduate grade, all of which work meets the minimum standards prescribed by the State Board of Education for the issuance of such certificate. The standard certificate in administration and supervision may be extended for life upon presentation of evidence that the holder has had three years of successful experience during the life of the certificate.

Simpson County Board of Education, et al. v. Bradley, et al., 246 Ky. 822. Holder of life certificate is entitled to teach without further examination and without requirements of scholastic training. (January 17, 1933.)

161.090 [4502-4] **Attendance Officers' Certificates.**—The State Board of Education, upon the recommendation of the Super-

intendent of Public Instruction, shall prepare rules and regulations for the certification of attendance officers.

161.100 [4502-5] **Emergency Certificates.**—When a district board of education satisfies the State Board of Education that it is impossible to secure qualified teachers for a position in a school under the control of the district board, the State Board of Education may, on approval of the Superintendent of Public Instruction, issue emergency certificates to persons who meet the qualifications determined by the State Board of Education for emergency certificates. An emergency certificate shall be valid only for the specific job for which issued and for the current school term. The State Board of Education may require the passing of a written examination before an emergency certificate is issued. The examination shall be prepared and administered and the papers graded in the State Department of Education under the direction of the Superintendent of Public Instruction, in accordance with rules and regulations approved by the State Board of Education.

161.110 [4502-13] **When Certificates to be Renewed.**—The State Board of Education may renew any certificate for teaching or for holding administrative position which expires on June 30 of any year if renewal requirements have been completed and filed with the Superintendent of Public Instruction before September 1 of the year in which the certificate expires.

161.120 [4502-9] **Revocation of Certificates.**—Any certificate issued under KRS 161.010 to 161.110, or any certificate or license issued under any previous law to superintendents, principals, teachers, supervisors, attendance officers or other administrative, supervisory or instructional employes may be revoked by the State Board of Education, on the written recommendation of the Superintendent of Public Instruction, for immorality, misconduct in office, incompetency or willful neglect of duty. Before the certificate is revoked the defendant shall be given a copy of the charges against him and an opportunity, upon not less than ten days' notice, to be heard in person or by counsel.

Additional grounds for revocation of certificates, KRS 158.990, 159.990, 161.990. Removal of school employes, KRS 156.110.

161.130 [4502-8] **Fees for Certificates.**—A fee of two dollars shall be paid for each issuance of a certificate and a fee of one dollar for each renewal.

REGULATIONS AS TO SCHOOL EMPLOYES

161.140 [4503-1] **Duties of School Employes Prescribed by Board of Education.**—Each board of education shall prescribe the duties to be performed by all persons in public school service in the district.

Employment of school employes, KRS 160.290, 160.350, 160.360, 160.380, 160.390, 160.990.
Removal of school employes, KRS 156.110.
School employes exempt from jury service, KRS 29.030.
Superintendent to supervise teachers, KRS 160.370 to 160.390, 160.990.
Teachers not to be interested in or sell school supplies, KRS 157.180.

Abrams v. Jackson Co. Board of Education, 230 Ky. 151. Under contract for employment of school teacher for seven months, it was duty of school board to furnish house in which to teach and in absence of stipulation in contract for cessation of teacher's salary during such period failure of board to furnish a suitable house in which to teach constituted a breach of contract. School teacher held not entitled to recover for breach of employment contract to teach for seven months on destruction of school building by fire, in absence of evidence showing that she attempted to find similar employment in locality. (June 21, 1929.)

County Board of Education v. Dudley, 154 Ky. 426. To be enforceable a contract for teacher's services must be executed in writing.

Mock v. County Board of Education of Nelson County, 145 Ky. 715, 141 S. W. 38. A county board of education is liable to a teacher for salary due under the teacher's contract; it is not liable for the wrongful acts of individual trustees in unlawfully dismissing the teacher.

Vaughan v. Hindman, 145 Ky. 507, 140 S. W. 641. A teacher had a contract with a board of trustees to teach a public school for a term of six months; the school building was destroyed by fire before expiration of the six months and no other building was provided. The teacher had no right of recovery for the salary for the remainder of the term.

Noble, Etc. v. Williams, Etc., 50 Ky. 439. Supplies voluntarily furnished by teacher cannot be recovered from the school board.

161.150 [4399.46] **Minimum Salary for Teachers.**—Each school district shall pay its teachers according to a salary schedule based on training, quality of service, experience, and such other items as the State Board of Education approves. A copy of the salary schedule prepared by each district board shall be filed with the State Board of Education. In case a district board is not able to pay all of its teachers the minimum salary provided in this section, the State Board of Education may approve a salary schedule for that board authorizing the payment of salaries below the minimum provided in this section. No teacher regularly employed in the public schools shall receive a salary of less than seventy-five dollars per month if the revenue received by the district from the state per capita plus one-half of the revenue received from local taxation will produce sufficient revenue to pay such salary for a period of seven months to elementary teachers and a period of eight months to high school teachers, allowing one teacher for each forty census pupils in the district.

Attachment or garnishment of salary of school employe, KRS 427.130.
Board of education to fix compensation of school employes, KRS 160.290.
Superintendent not to buy teachers' claims, KRS 160.420, 160.990.

Madison County Board of Education v. Madison County Fiscal Court, 249 Ky. 540. Teachers must be paid according to law and amount due them as shown in the budget and not according to temporary salary schedule formerly made and adopted for use as emergency measure. (June 2, 1933.)

161.170 [4503-3] **Teachers to Enforce Course of Study and Use of Books; Removal for Failure.**—Each teacher in the public schools shall enforce the course of study, the use of the legally authorized textbooks, and the rules and regulations prescribed for the schools. If any teacher willfully refuses or neglects to comply with the law or such rules and regulations the board of education, upon recommendation of the superintendent, may remove him at any time. When so removed the teacher shall receive payment only for the time taught.

Removal of teachers by Department of Education, KRS 156.110.

161.180 [4503-4] **Teachers Responsible for Pupils' Conduct.**—Each teacher in the public schools shall hold pupils to a strict account for their conduct in school, on the way to and from school, on the playgrounds, and during intermission or recess.

Suspension of pupils, KRS 158.150.

City Board of Education v. Dudley, et al., 154 Ky. 426. Teachers; rights and liabilities of.

Cross v. Trustees, 129 Ky. 35. It was held that a pupil's conduct in refusing to take part in a dialogue in the annual commencement exercises constituted insubordination and was good cause for suspension.

Trustees of a graded school district have no right to arbitrarily expel a pupil from a school which he has attended, nor to arbitrarily refuse him the privilige of attending the school in the future.

Board of Education v. Booth, 110 Ky. 807, 62 S. W. 872. Pupils may be expelled for violations of rules of school, and courts will not interfere with or control the action of trustees unless they acted arbitrarily or maliciously.

161.190 [4503-8] **Abuse of Teacher Prohibited.**—No person shall upbraid, insult or abuse any teacher of the public schools in the presence of the school or in the presence of a pupil of the school.

161.200 [4503-5] **Records to be Kept by Teachers.**—Each teacher in the public schools shall keep an approved record which shall be left with the superintendent or as he directs at the close of the term. The record shall show the program of recitations, classification, attendance and grading of all pupils who attended school at any time during the school year, and such other facts as are required.

161.210 [4503-6; 4503-7] **Reports to be Made by Teachers.**—(1) Each teacher or other person in the public schools shall make reports and inventories to the district superintendent at the time and in the manner prescribed by the district board of education and the State Board of Education.

(2) No teacher shall willfully make a false monthly or term report of time taught or other item or shall willfully fail to make a required report.

(3) Any teacher who closes any school term before the close of the school year shall make a report to the superintendent im-

mediately after the close of the term. Any teacher who is teaching any school at the end of the school year shall in his annual report include all statistics for the entire school year, notwithstanding any previous report for a part of the year.

TEACHERS' RETIREMENT

161.220 [4506b-2] **Definitions of Terms Used in KRS 161.230 to 161.710.**—As used in KRS 161.220 to 161.710, unless the context otherwise requires:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.710 for the payment of retirement allowances or disability allowances to teachers.

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of superannuation.

(3) "Disability allowance" means the amount annually payable before the deductions authorized in KRS 161.670 during the course of his natural life to a member who has been retired by reason of disability before reaching the age of sixty years.

(4) "Teacher" means:

(a) Any full-time regular or special teacher, principal, supervisor, superintendent, assistant superintendent, librarian, attendance officer, or other full-time member of the teaching or professional staff engaged in the service of the public elementary and secondary schools for whom certification is required as a condition of employment;

(b) All members of the instructional and administrative staffs of Eastern Kentucky State Teachers College, Western Kentucky State Teachers College, Murray State Teachers College, Morehead State Teachers College, Kentucky School for the Deaf, Kentucky School for the Blind, Kentucky State College for Negroes, West Kentucky Vocational Training School and Mayo State Vocational School who are regularly employed by a board of education, board of regents or board of trustees for a full term for which school is maintained;

(c) The Superintendent of Public Instruction and the division heads and other professional staff members of the State Department of Education appointed in accordance with KRS 156.140; and

(d) Any member of a local retirement system who became a member of the state retirement system according to the provisions of 1938, 1st ex.s., c. 1, § 49.

Richardson v. Bell County Board of Education, 296 Ky. 520. Positions of teacher and Asst. Supt. incompatible. (February 1, 1944.)

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938, 1st ex.s., c.l, on the date of the inauguration of the system or within one year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of such system until he, with the membership of the local retirement system, became a member of the state retirement system.

(6) "New teacher" means any teacher not a present teacher.

(7) "Prior-service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, as allowed in his prior-service certificate, except that not more than thirty years' prior service shall be allowed or credited to any teacher.

(8) "Subsequent service" means the number of years during which the teacher is a member of the state retirement system after July 1, 1941.

(9) "Prior service certificate" means the certificate issued by the board of trustees of the retirement system designating the amount of accredited service, not to exceed thirty years, of a member prior to July 1, 1941.

(10) "Annual salary" means the average annual salary which the member has received for his services as a teacher in the public schools of Kentucky for five years or for as many years if less than five, prior to July 1, 1941, except that any salary which exceeds two thousand dollars shall be considered two thousand dollars; and during the five years or for as many years if less than five years, immediately preceding retirement by reason of superannuation or disability, except that any salary which exceeds two thousand dollars in any year prior to July 1, 1946, shall be considered two thousand dollars and any salary for any year subsequent to July 1, 1946, which shall exceed two thousand four hundred dollars shall be considered two thousand four hundred dollars. (Subsection (10) amended, 1946, c. 111, § 1)

(11) "Annual compensation," means the contractual salary and additions thereto received by a member as compensation for his services as a teacher in the public schools of Kentucky during a given fiscal year before any deductions, except that any such compensation that exceeds two thousand four hundred dollars shall be considered as two thousand four hundred dollars only. (Subsection (11) amended, 1946, c. 111, § 1)

(12) "Age of retirement" means the age attained at the last birthday of the member preceding the date of retirement.

(13) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a teacher subject to membership in the system at that time. Otherwise it means the age attained at the last birthday of any member at the time he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28.

(14) "Regular interest" means interest at three percent per annum compounded annually.

(15) "Accumulated contributions" means the contributions of a member plus regular interest.

(16) "Annuitant" means a person who receives a retirement allowance or a disability allowance.

(17) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky.

(18) "Fiscal year" means the twelve-month period from July 1 to June 30.

(19) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section.

161.230 [4506b-1] **Retirement System; Purpose; Name.**—The teachers' retirement system is established as of July 1, 1940, for the purpose of providing retirement allowances and other benefits for teachers, under the provisions of KRS 161.220 to 161.710. It shall have the powers and the privileges of a corporation and shall be known as the "Teachers' Retirement System of the State of Kentucky." Its business shall be transacted, its funds invested, and its cash and securities held in that name.

Board of Education of Louisville v. City of Louisville, et al., 228 Ky. 656. Declares Teachers' Retirement Act constitutional and that retired teachers of Louisville pensions to be met by funds of regular levy. (December 16, 1941.)

161.240 [4506b-3] **Districts, Institutions and Offices Included in System.**—The retirement system shall embrace all of the public elementary and secondary schools of the state and the institutions and offices enumerated in subsection (4) of KRS 161.220.

161.250 [4506b-5] **Board of Trustees to Control Retirement System; Membership.**—The general administration and management of the retirement system, and the responsibility for its proper operation and for making effective the provisions of KRS 161.220 to 161.710, are vested in a board of trustees to be known as the "Board of Trustees of the Teachers' Retirement System of the State of Kentucky." The members of the board of trustees shall be the Superintendent of Public Instruction, the Attorney-General, the State Treasurer, and four other members elected as provided in KRS 161.260. Three of the elective members shall be members of the retirement system, to be known as teacher members, and one shall be a person who is not a member of the teaching profession, to be known as the lay member.

161.260 [4506b-6; 4506b-6a] **Election of Members of Board of Trustees; Term.**—An election shall be held on or before June 1 each year to elect one member of the board of trustees. The member to be elected each year shall depend upon the respective terms of the members elected under 1938, 1st ex.s., c.1, § 7, and 1940, c. 192, § 7a. Each member shall assume office on July 1 following his election and shall serve for a term of four years. The elections shall be conducted by ballot under the supervision of the Superintendent of Public Instruction. Each teacher who is a member of the retirement system shall have the right to vote. Nomination for membership on the board of trustees shall be made by a nominating committee consisting of one delegate from the membership of each of the districts of the Kentucky Education Association, the President of the Kentucky Negro Education Association and one member appointed by him from the membership of the Kentucky Negro Education Association. No person may be a member of the nominating committee who is not a member of the system. The President of the Kentucky Education Association shall preside over the meeting of the nominating committee. Two persons shall be nominated by the nominating committee. All expenses of the elections shall be paid by the board of trustees out of its general expense fund.

161.270 [4506b-7] **Vacancies; How Filled.**—Vacancies occurring during the terms of the elective members shall be filled by the remaining members of the board of trustees by election for the unexpired terms.

161.280 [4506b-9] **Oath of Board Members.**—Each member of the board of trustees shall, within ten days after his appointment or election, take an oath that he will support the Constitution of the United States and the Constitution of Kentucky, that he will diligently and honestly administer the affairs of the board, and that he will not knowingly violate or willingly permit to be violated any provisions of the law applicable to the retirement system. The oath of office shall be subscribed to by the member making it and certified to by the officer before whom it is taken, and shall be immediately filed in the office of the Secretary of State.

Constitutional oath, Const. 228.

161.290 [4506b-8; 4506b-15] **Compensation and Expenses of Board Members; Office Quarters.**—The members of the board of trustees shall serve without compensation but shall be reimbursed from the expense fund for all necessary expenses they incur through service on the board. Suitable office quarters for the operation of the retirement system shall be provided by the state at the capital.

161.300 [4506b-10] **Quorum.**—A majority of the board of trustees shall constitute a quorum. Each trustee shall be entitled to one vote. Four votes shall be necessary for a decision by the trustees at any meeting of the board.

161.310 [4506b-11] **Rules and Regulations.**—The board of trustees shall from time to time establish rules and regulations for the administration of the funds of the retirement system and for the transaction of business.

161.320 [4506b-17] **Record of Proceedings; Annual Report.**—The board of trustees shall keep a record of all its proceedings which shall be open to public inspection. It shall publish on or before January 1 of each year a report giving an account of the operation of the system, showing the fiscal transactions of the system for the preceding year and the amount of the accumulated cash and securities of the system, and containing the last balance sheet showing the financial condition of the system by means of an actuarial valuation of its assets and liabilities.

161.330 [4506b-14] **Cost of Administration; How Paid.**—The cost of administration of the retirement system shall be paid out

of the expense fund established for that purpose by the board of trustees.

161.340 [4506b-12] **Chairman and Secretary of Board; Personnel of System.**—The board of trustees shall elect from its membership a chairman and shall by a majority vote of all its members appoint a secretary who is not a member of the board. The secretary shall at the time of appointment be at least thirty-five years of age, a graduate of a standard four-year college, have had at least ten years' experience as a teacher, and be eligible for membership in the retirement system. He shall not have held, by appointment or election, an elective office within the five-year period next preceding the date of appointment. The board shall engage such actuarial, legal, medical and other technical services and such clerical or other services as are required to transact the business of the retirement system. The compensation of all persons engaged by the board and all other expenses of the board necessary for the operation of the retirement system shall be paid at such rates and in such amounts as the board approves.

161.360 [4506b-35] **Workmen's Compensation and Unemployment Compensation May be Adopted for Employes.**—The board of trustees may elect workmen's compensation and unemployment compensation coverage for its employes. Any contributions required for such coverage shall be considered proper expense payable from the expense fund.

161.370 [4506b-18] **Treasurer, Auditor and Legal Adviser of Board.**—The State Treasurer, the Auditor of Public Accounts and the Attorney-General shall be treasurer, auditor and legal adviser, respectively, of the board of trustees, and shall be liable upon their official bonds for the faithful performance of such duties. They shall serve without compensation. When the board of trustees deems it for the best interests of the retirement system, it may employ attorneys and auditors and pay reasonable fees for the services rendered.

161.380 [4506b-22] **Duties of Treasurer.**—The State Treasurer is the custodian of all funds of the retirement system. He shall honor and pay all vouchers drawn on the retirement funds when there is attached to the vouchers certified copies of resolutions of the board authorizing the respective payments. All securities purchased by order of the board of trustees shall be forthwith

placed in the hands of the treasurer. He shall collect the interest and principal thereon as it becomes due and payable and place it in the guarantee fund. The treasurer shall, upon delivery of the securities to him, honor and pay all vouchers drawn on the retirement funds for payment of securities purchased upon order of the board, when there is attached to the vouchers certified copies of resolutions of the board authorizing the purchases. The board may sell any of the securities upon like resolution, and the proceeds thereof shall be paid by the purchaser to the treasurer upon delivery to him of the securities by the treasurer. All payments from the several funds of the retirement system shall be made only upon vouchers signed by the secretary of the retirement system.

161.390 [4506b-16] **Actuarial Data to be Kept.**—The board of trustees shall keep in convenient form the data necessary for the actuarial valuation of the various funds of the retirement system and for determining the administrative costs of the system.

161.400 [4506b-20] **Actuary; Employment; Duties.**—The board of trustees shall designate as an actuary a competent person who shall be the technical adviser of the board on matters regarding the operation of the funds of the system and who shall perform such other duties as are required in connection therewith. At least once in each five-year period after the first year of operation of the system the actuary shall make an actuarial investigation into the mortality, earnable interest, and service and compensation of the members and beneficiaries of the retirement system, make a valuation of the assets and liabilities of the funds of the system, and recommend to the board of trustees such changes as may be deemed necessary to keep the retirement system on a sound financial basis. On the basis of the results of such investigations the board of trustees shall make necessary changes in the retirement system within the provisions of law, and shall recommend the contributions payable by the state within the limits specified in KRS 161.550.

161.410 [4506b-19] **Medical Director; Employment; Duties.**—The board of trustees shall designate a medical director. The medical director shall arrange for and pass upon all required medical examinations, investigate all essential statements and certificates by or on behalf of a member in connection with an

application for disability allowance, and report in writing to the board of trustees his conclusions and recommendations upon all such matters referred to him. The board of trustees may acquire such additional medical advice and information as it deems necessary.

161.420 [4506b-35] **Funds of the Retirement System.**—All the assets of the retirement system shall be credited according to the purpose for which they are held to one of the following funds:

(1) The expense fund shall consist of the funds set aside from year to year by the board of trustees to defray the expenses of the administration of the retirement system. Each fiscal year an amount not greater than four percent of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system.

(2) The teachers' savings fund shall consist of the assessments paid by members of the retirement system and interest assigned by the board of trustees from the guarantee fund. The accumulated contributions of a member returned to him upon his withdrawal or paid to his estate or designated beneficiary in the event of his death shall be paid from the teachers' savings fund. Any accumulated contributions forfeited by a failure of a teacher or his estate to claim the same shall be transferred from the teachers' savings fund to the guarantee fund. The accumulated contributions of a member shall be transferred from the teachers' savings fund to the allowance reserve fund in the event of retirement by reason of superannuation or disability.

(3) The state accumulation fund shall consist of the state's appropriations to the retirement system, excluding money assigned to the expense fund, together with interest assigned by the board of trustees from the guarantee fund. At the time of the retirement of a member by reason of superannuation or disability there shall be transferred from the state accumulation fund an amount which together with the sum transferred from the teachers' savings fund will be sufficient to provide the member the allowance granted in KRS 161.620 and 161.660.

(4) The allowance reserve fund shall be the fund from which shall be paid all allowances, or benefits in lieu thereof, on account of which moneys have been transferred from the teachers' savings fund, the state accumulation fund or the guarantee fund.

(5) The guarantee fund shall be established to facilitate the crediting of uniform interest on the amounts of the other funds, except the expense fund, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. All income, interest and dividends derived from the authorized deposits and investments shall be paid into the guarantee fund. Any funds received from gifts and bequests, which the board is hereby authorized to accept, shall be credited to the guarantee fund. Any funds transferred from the teachers' savings fund by reason of lack of claimant or because of a surplus in any fund, and any other moneys whose disposition is not otherwise provided for, shall also be credited to the guarantee fund. The interest allowed by the board of trustees to each of the other funds shall be paid to such funds from the guarantee fund. Any deficit occurring in any fund that would not be automatically covered shall be met by the payments from the guarantee fund to that fund.

161.430 [4506b-21] **Investment of Funds.**—(1) The board of trustees shall be the trustee of the funds of the retirement system, and shall have full power and responsibility for the investment and disbursement of the funds. No investment shall be made of the funds except in the following:

(a) Obligations of or guaranteed by the United States Government.

(b) Obligations of any state, or of any city in this state of the first, second or third class.

(c) First mortgages on real estate in this state not exceeding fifty percent of the appraised value thereof.

(d) Deposits in banks or trust companies in this state organized under the laws of this state or of the United States, when such deposits are interest-bearing at a rate not lower than three percent per annum, and when such deposits are secured by the deposit of security approved by the State Treasurer and the board of trustees.

(2) No investment or disbursement of the funds shall be made unless authorized by a resolution adopted by the board of trustees.

161.440 [4506b-23] **Interest on Funds; Disposition of.**—At the end of each fiscal year the board of trustees shall assign from the

guarantee fund to each of the other funds, except the expense fund, interest at the rate of three percent on the average amount of such funds during that fiscal year. The amounts so allowed shall be due and payable to the funds, and shall be annually credited thereto by the board of trustees from interest and other earnings on money of the retirement system.

161.450 [4506b-24] **Cash on Deposit.**—For the purpose of meeting disbursements for allowances and other payments there may be left available cash on deposit in such sums as the board of trustees may direct in one or more banks or trust companies in this state organized under the laws of this state or of the United States. The total amount of cash on hand and unsecured deposits at any time shall not exceed the receipts of the retirement system from all sources during the previous twelve months.

161.460 [4506b-25] **Interest in Investments; Trustees and Employes Not to Have.**—No member or employe of the board of trustees shall have any interest in the gain or profits of any investment made by the board, or for himself or as an agent for another use any of the assets of the retirement system in any manner except to make current and necessary payments authorized by the board, or become an endorser, surety or obligor for moneys loaned to or borrowed from the board, or otherwise profit from any transaction of the board.

161.470 [4506b-27] **Membership of Retirement System.**—The membership of the retirement system shall consist of all new teachers, and all present teachers except those who filed statements declining membership as provided in 1938, 1st ex.s., c.1, § 29, and did not withdraw the statements within the time allowed by that section.

161.480 [4506b-29] **Statement to be Filed on Becoming Member.**—Each person, upon becoming a member of the retirement system, shall file a detailed statement of all of his previous service as a public school employe, his date of birth, his age at entrance into the system, the salary received as a public school employee in this state, and such other facts as the board of trustees require for the proper operation of the retirement system.

161.490 [4506b-30] **Investigation of Statement; Issuance of Certificate.**—To the extent to which it is used in determining the liability of any fund of the retirement system, the board of trustees

shall ascertain the correctness of the statement filed under KRS 161.480 by the best evidence it is able to obtain. If official records are not available as to length of service, age, salary or other information required for the administration of the retirement system, the board may use its discretion as to the evidence to be accepted. When all the statements have been properly investigated and recorded, the secretary of the retirement system shall issue to each member a certificate of membership in the system.

161.500 [4506b-31] **Prior Service Certificates; Issuance of.**—(1) Upon confirmation of the statements required by KRS 161.480 the board of trustees shall issue prior-service certificates to each member certifying the length of prior service with which he is credited on the basis of his statement of service. While membership continues a prior-service certificate shall be final and conclusive evidence of such service, except that on evidence of error any member may, within one year from the date of issuance or modification of the certificate, request the board of trustees to modify or correct his prior-service certificate. When membership ceases the prior-service certificate becomes void. If the teacher again becomes a member he shall enter the system as a member not entitled to prior-service credit except as provided under KRS 161.520.

(2) The board of trustees shall fix by rules and regulations how much service in any year is equivalent to one year of service, but in no case shall more than one year of service be creditable for all service in one calendar year. Service rendered for the regular school year in any district or institution shall be equivalent to one year's service.

161.510 [4506b-32] **Prior Service Allowed New Members.**—A teacher who was not employed for the 1940-41 school year but who was employed as a teacher in this state prior to the 1940-41 school year shall, when again employed, be considered a new teacher, and membership in the retirement system shall be compulsory for him. He may receive credit for prior service when he produces evidence that he was regularly employed as a teacher in this state for full terms in three of the six school years preceding July 1, 1940.

161.515 Out-of-state Service Credit; Teachers in Noneducational State Institutions Authorized to Come into Retirement System.—(1) For the purposes of this section, "out-of-state service" shall mean service in any other state in a comparable position, which would be covered if in Kentucky.

(2) (a) After a teacher has been a member of the retirement system for at least one full scholastic year, he may present for credit, service rendered out-of-state subsequent to July 1, 1940, not to exceed eight such years actually taught as a certified or licensed teacher, provided such member pays to the retirement system the amount he would have paid had he been teaching in Kentucky and in addition thereto three percent compound interest on each annual contribution from the last day of the scholastic year in which the service was rendered to date of payment to the retirement system. For each year for which the retirement system shall accept the contribution and interest, one year of subsequent service credit shall be given, excepting that for the year 1940-41 prior service credit shall be given. Not more than eight years may be contributed for under this section.

(b) For each such year so paid for and for any additional years for which contributions have been paid currently, not to exceed eight years in all, any member of the retirement system may offer bona fide out-of-state service for credit as prior service but not a greater number of years than the number for which contributions are paid, and in no case more than eight years of service prior to July 1, 1940.

(c) All such service, both subsequent and prior, shall be certified to by the member and verified according to KRS 161.480 and 161.490. Appropriate forms for this purpose shall be furnished by the Board of Trustees and used by the member making application. After additional out-of-state service credit has been granted under this section, the member receiving such service credit shall return his retirement certificate to the Board of Trustees and the secretary of the retirement system shall enter thereon, with the approval of the Board of Trustees, the additional credit allowed any such member.

(3) Nothing in this section shall be construed to permit a member of the Kentucky Retirement System to leave the profession in Kentucky to teach in another state and during such service or upon return to teaching in the schools of Kentucky apply for the validation of such subsequent service under the provisions of this section.

(4) It is further provided that certificated teachers employed in, entering upon or transferring to service in the noneducational state institutions of Kentucky under the direction of the Depart-

ment of Welfare as teachers or as supervisors of instruction may upon request to the Board of Trustees come into or continue in membership and pay their retirement contributions under such rules and regulations as said Board of Trustees may adopt not inconsistent with the Retirement Act for the payment of said contributions. (1946, c. 111, § 2)

161.516 Teachers in Noneducational State Institutions Authorized to Come Into Retirement System.—Teachers and supervisors of instruction holding valid certificates issued by the State Department of Education and employed in, entering upon, or transferring to teaching service in the noneducational state institutions of Kentucky under the direction of the Department of Welfare may by request be accepted by the Board of Trustees to come into or continue in membership and pay their retirement contributions to the Teachers' Retirement System of the State of Kentucky under such rules and regulations as the Board of Trustees of said retirement system may adopt for payment of said contributions and which are not inconsistent with the retirement laws of the Teachers' Retirement System. (1946, c. 102)

161.520 [4506b-33] **Termination of Membership.**—(1) Membership in the retirement system shall be terminated:

(a) By retirement for disability or superannuation;

(b) By death;

(c) By withdrawal;

(d) When a teacher who is absent from service withdraws his deposits in the fund; or

(e) When a teacher is absent from service three out of six consecutive years, unless the board of trustees in accordance with its rules and regulations grants a longer period, not in excess of six years, of absence from active service as a teacher without the loss of his status as a member.

(2) Prior-service rights shall be forfeited upon withdrawal, and if the teacher again enters the service it shall be as a new teacher, except that any teacher who withdraws by claiming his deposits may, before he is absent from service three school years, repay to the system the sums he received from it upon his withdrawal with regular interest and thus reestablish his prior-service rights.

(3) In case of withdrawal from service prior to retirement the board of trustees shall return to the teacher all of his accumulated contributions, with regular interest, but the teacher shall have no claim upon any contributions made by the state with a view to his retirement.

(4) In case of death prior to retirement the board of trustees shall pay to the estate of the deceased member or to his assigns all of his accumulated contributions, with regular interest, but the estate or assigns shall have no claim on any contributions made by the state with a view to the retirement of the teacher.

(5) The board of trustees shall determine the number of installments in which the return of the accumulated contributions shall be made in case of death or withdrawal, but in no case shall the number of installments be greater than four or the expired time longer than one year from the date of the establishment of the claim.

161.530 [4506b-34] **Forfeiture of Claim.**—After a lapse of ten years from the date of termination of membership in the retirement system, if no previous request has been made for the return of the member's contribution, his accumulated contribution shall be forfeited and converted to the guarantee fund of the retirement system.

161.540 [4506b-36] **Members' Contributions to System.**—Each member whose age on the first day of any current scholastic year is less than thirty years shall contribute to the retirement system two percent of his annual compensation. Each member whose age on the first day of any current scholastic year is thirty years and less than forty years shall contribute to the retirement system three percent of his annual compensation. Each member whose age is forty years or more on the first day of any current scholastic year shall contribute to the retirement system four percent of his annual compensation. The contribution of a member shall not exceed his percentage, determined by his age, on his current annual compensation and no contribution shall be made on the excess of annual compensation over two thousand four hundred dollars. (1946, c. 111, § 3)

161.550 [4506b-37] **State's Contribution to System.**—Beginning with July 1, 1942, the state shall annually contribute to the retirement system a permanent amount equal to that contributed by all members, and shall annually contribute a temporary amount equal

to two percent of the salaries of all present teachers, in order to cover the obligation assumed by the state for prior-service credit.

161.560 [4506b-38] **Deduction of Teacher's Contributions; Employing Agency to Make.**—Each agency employing members of the retirement system shall deduct from the compensation of each member for each payroll period subsequent to the date upon which the teacher became a member such percentage of his earnable compensation as is due under the rates prescribed in KRS 161.540, and shall certify the amounts so deducted to the treasurer of the employing agency, together with a list of all members contributing and the amounts contributed by each. Upon receipt of such certificate the treasurer shall immediately transmit the collections to the secretary of the retirement system together with a list of all members contributing and the amounts contributed by each. The secretary of the retirement system, after making a record of all such receipts, shall pay them to the State Treasurer. The deductions shall be made notwithstanding the fact that the pay resulting therefrom may be less than the minimum compensation provided by law for teachers. Every member shall be deemed to consent and agree to the deductions and the deductions shall be considered as having been paid to the member.

City of Louisville, et al. v. Board of Education of Louisville, et al., 291 Ky. 7. Teachers entitled to present distribution of funds of Teacher Retirement System rather than receive it from time to time as they cease to teach. (June 2, 1942.)

161.570 [4506b-38] **Reports by Employing Agency.**—(1) Each agency employing members of the retirement system shall during the month of July of each year, or at such other time as the board of trustees approves, certify to the board of trustees the names and salaries of all teachers to whom the retirement system applies, and shall on the first day of each calendar month, or at less frequent intervals which the board of trustees may approve, notify the board of trustees of the employment of new teachers, removals, withdrawals, and changes in salaries of teachers that have occurred during the month preceding or the period since the period covered by the last notification.

(2) Each agency employing members of the retirement system shall keep such other records and furnish such other information and assistance to the board of trustees as it requires in the discharge of its duties.

161.580 [4506b-39] **Individual Accounts to be Kept; Other Data.**—The board of trustees shall provide for the maintenance of

an individual account with each member showing the amount of the member's contribution and interest accumulations. It shall collect and keep in convenient form such data as is necessary for the preparation of the required mortality and service tables and for the compilation of such other information as is required for the actuarial valuation of the assets and liabilities of the various funds of the retirement system.

161.590 [4506b-40] **Service Credited at Retirement.**—At retirement the total service credited to a teacher shall consist of the membership service rendered by him for which credit has been allowed and, if his prior-service certificate is in full force and effect, all service certified on his prior-service certificate.

161.600 [4506b-41] **Retirement; Conditions of.**—Any member who has attained the age of sixty years and who has completed twenty years of service as a teacher in Kentucky, five years of which have immediately preceded retirement, may retire upon written application to the board of trustees of the retirement system. The filing of the application shall, unless it is withdrawn, retire the member at the end of the current fiscal year. Any member shall be automatically retired at the end of the fiscal year during which he attains the age of seventy years. Members who are seventy years of age or older on July 1, 1942, shall be automatically retired on that date.

161.610 [4506b-42] **Withdrawal After Thirty Years; Continuation of Contributions; Benefits.**—Any person who has been a teacher in Kentucky for thirty years or more and who withdraws from teaching after June 12, 1940, and before reaching the age of sixty years may refuse to withdraw his deposits and continue to pay into the fund each year until the end of the fiscal year in which he reaches the age of sixty years the same amount that he was required to contribute during his last full year as a teacher. If he so elects he shall, at the end of the fiscal year in which he attains the age of sixty years and thereafter, be entitled to receive the same retirement allowance as a teacher who retires at the age of sixty years.

161.620 [4506b-43] **Retirement Allowances; Amount of.**—(1) The retirement allowance of a member retiring for super-annuation whose age of retirement is seventy years or over shall be one percent of his average annual prior service salary for each year of prior service and one and one-half percent of his average annual

subsequent service salary for each year of subsequent service. The retirement allowance of a member retiring for superannuation whose age at time of retirement is sixty years and less than seventy years shall be reduced to that amount which the value of the retirement allowance computed as provided in this section at age seventy will purchase as of the actual age of retirement of the member, according to the actuarial table in use by the system. The retirement allowance in final amount at age of retirement shall be determined by an actuarial factor equivalent to one at age seventy. Said factors shall be determined by the actuary of the retirement system and approved by the Board of Trustees.

(2) For any member retiring on or after July 1, 1946, no retirement allowance shall be greater than one-half of the member's average annual salary, nor greater than twelve hundred dollars.

(3) Effective July 1, 1946, and including living retired members and members who retire subsequently, no retirement allowance shall be less than one hundred dollars per year and not less than ten dollars per credit year at the time of retirement, but such total minimum allowance shall not be more than three hundred dollars per year. Any retirement allowance which has been or will be computed to be less than this minimum shall be increased to said minimum. (1946, c. 111, § 4)

161.630 [4506b-48] **Benefit Options.**—The beneficiary of a retirement allowance shall receive retirement allowances in the form of a life annuity, as provided in KRS 161.620, unless he elects, before the first payment of a retirement allowance is made, to receive equivalent benefits under such options as the board of trustees approves. No option shall provide for a benefit with an actuarial value at the age of retirement greater than that provided in KRS 161.620. No payment during any year on account of one beneficiary shall be greater than one thousand dollars under such options. This section does not apply to disability allowances.

161.640 [4506b-46] **Payment of Annuities; Time of.**—The first payment to an annuitant shall be made at the payment date at the end of one full payment period after his retirement and shall consist of one regular quarterly payment.

161.650 [4506b-47] **Death of Retired Member; Payment to Estate.**—In case of death of a member who has retired by reason of superannuation or disability, any portion of the member's contribu-

tions, including regular interest to the date of retirement, that has not been paid as an allowance or benefit shall be paid to the member's estate in such manner as the board of trustees elects.

161.660 [4506b-44] **Disability Allowance.**—Any member, after he has attained the age of fifty but before he has attained the age of sixty years, who has completed twenty years of accredited service in the public schools of the State of Kentucky, five of which immediately preceded retirement, may retire for disability and shall be granted a disability allowance to be paid from the funds of the retirement system. The disability allowance of each member retiring for disability shall be calculated in the same manner as the allowance for a superannuated member, excepting and providing that the factor used in final determination of the annuity shall be the factor corresponding to age sixty and not the factor corresponding to age at retirement. The same minimum and maximum provisions as apply for members retiring for superannuation shall apply in all cases of retirement for disability. (1946, c. 111, § 5)

161.670 [4506b-45] **Disability to be Established by Medical Examination.**—(1) Retirement for disability shall be granted only after the applicant has established his claim through medical examination. The medical examination shall be made upon application by the member or by a person acting in his behalf, or by the agency employing him, stating that the member is physically or mentally incapacitated for the performance of duty and ought to be retired. If the medical examination conducted by a physician selected by the board of trustees shows that the member is physically or mentally incapacitated for the performance of duty and ought to be retired, the examining physician shall so report to the board of trustees and the board of trustees shall forthwith retire the member for disability.

(2) A member retired for disability shall, until reaching the age of sixty years, be required to undergo periodic examinations at the discretion of the board of trustees in order to determine whether the disability allowance shall be continued. When an examination shows that the disability has been removed, the allowance shall cease. If the beneficiary of a disability allowance is able to engage in a gainful occupation other than teaching, the benefit shall be reduced, until the beneficiary reaches the age of sixty years, to an amount which with the earned income will not exceed the average salary for the five years preceding retirement, except

that in no case shall the disability allowance be reduced to less than one hundred dollars.

161.680 [4506b-50] **Mistake in Payment; Correction Of.**—If any change or error in a record results in any employe or beneficiary receiving from the retirement system more or less than he was entitled to receive, the board of trustees shall, when the error is discovered, correct the error, and as far as practicable adjust the payments so that the actuarial equivalent of the benefit to which he was entitled shall be paid.

161.690 [4506b-50] **Falsifying Record Prohibited.**—No person shall knowingly make any false statement, nor shall any person falsify or permit to be falsified any record of the retirement system in an attempt to defraud the system.

161.700 [4506b-51] **Taxation and Process; Funds and Rights Under System Exempt From.**—The right of a teacher to a retirement allowance and to the return of contributions, any benefit or right accrued or accruing to any person under the retirement system, and the money in the various funds of the retirement system are exempt from any state or municipal tax, are not subject to execution, garnishment, attachment or other process, and are unassignable except as provided in this chapter.

161.710 [4506b-49] **Local System Merged With State System; Provisions Concerning.**—(1) The local retirement systems merged with the state retirement system under the provisions of 1938, 1st ex.s., c.1, § 49, shall be discontinued. The payment of all benefits to members on the retired roll at the time of discontinuance shall become the obligation of the school district in which the local system was operated prior to its discontinuance. The method of determining and paying refundable deposits due members of the local system shall be as provided in 1938, 1st ex.s., c.1, § 49.

(2) Payments to annuitants in cities of the first class shall not exceed the amount being received by them at the time the local retirement system is discontinued. The sum that remains after the death of all annuitants shall be used by the local board of education for general school purposes.

(3) The local board of education shall continue to invest the funds transferred to it for the benefit of the existing annuitants as long as such annuitants live. Such investment shall be

governed by 1934, c. 65, Art. IX, except that the local board of education is substituted for the board of trustees of the local retirement system. The local board of education shall keep all funds transferred to it by the local retirement system and all income from the investment of such funds in a separate fund to be known as the Annuity Fund. The local board of education may pay from the fund any reasonable expenses necessary for the fund's administration and general management. The local board of education shall safeguard the fund by requiring such additional surety bond of the treasurer as it deems necessary, by providing for an annual audit by a reputable auditing firm, by spreading on the minutes of the board of education at least annually a report of investments, assets and liabilities, and the names, addresses and annuities of annuitants, and by making such an appropriation to the fund from local school revenues as will guarantee the full and complete discharge of all obligations to annuitants.

City of Louisville, et al. v. Board of Education of Louisville, et al., 291 Ky. 7. Teachers entitled to present distribution of funds of Teacher Retirement System rather than receive it from time to time as they cease to teach. (June 2, 1942.)

Board of Education of Louisville v. City of Louisville, et al., 288 Ky. 656. Declares Teachers' Retirement Act constitutional and that retired teachers of Louisville pensions to be met by funds of regular levy. (December 16, 1941.)

TEACHERS' TENURE

161.720 Definitions for Teachers' Tenure Law.—(1) The term "teacher" for the purpose of KRS 161.720 to 161.810 shall mean any person for whom certification is required as a basis of employment in the public schools of the state with the exception of the superintendent.

(2) The term "year" as applied to terms of service means actual service of not less than seven school months within a school year, provided, however, that any board of education may grant a leave of absence for professional advancement with full credit for service.

(3) The term "limited contract" shall mean a contract for the employment of a teacher for a term of four years or less.

(4) The term "continuing service contract" shall mean a contract for the employment of a teacher which shall remain in full force and effect until the teacher resigns or retires or until it is terminated or suspended as provided in KRS 161.790 and 161.800.

(5) The term "continuing status" means employment of a teacher under a continuing contract.

(6) The term "standard" or "college" certificate for the purpose of KRS 161.720 to 161.810 shall mean any certificate issued upon the basis of graduation from a standard four-year college. (1942 c. 113, 1944, c. 98)

161.721 Superintendent Eligible for Continuing Contract Status.—The superintendent shall be eligible for continuing contract status when he meets all requirements prescribed in KRS 161.720 to 161.810 for continuing contracts for teachers. (1944, c. 98)

161.730 Limited or Continuing Contracts With Teachers Required.—Each board of education shall enter into either limited or continuing contracts for the employment of all teachers. (1942, c. 113, 1944, c. 98)

161.740 Eligibility for Continuing Service Status; Reemployment of Those Eligible; Reinstatement After War Service.—(1) Teachers eligible for continuing service status in any school district shall be those teachers who meet qualifications listed in this section:

(a) Hold a Standard or College Certificate as defined in KRS 161.720.

(b) Have taught four years in the district.

(c) Have served two years in the district after they have attained continuing contract status elsewhere. Upon the recommendation of the superintendent the board of education may at the time of the employment or at any time within such two year period declare any of the latter teachers eligible.

(2) A teacher eligible for continuing service status shall be reemployed and a continuing contract shall be entered into between the board of education and such teacher upon the recommendation of the superintendent unless the board by a four-fifth vote of its full membership rejects the continuing contract of the teacher recommended. However, the superintendent may recommend employment of such teacher, under a limited contract, for not to exceed two years but upon subsequent reemployment only a continuing contract may be entered into.

(3) Any teacher or superintendent who has been or may be hereafter inducted into the Armed Forces of this country for service in the present war, shall at the expiration of such service

be reemployed or reinstated in his or her former position as of the beginning of the next school year provided application is made at least thirty days before the opening of school, unless physically or mentally incapacitated. Any teacher or superintendent desiring reinstatement in his or her former position shall file application for same with the board of education within a period of sixty days immediately following discharge from the Armed Forces of the country. Vacancies created by military leaves shall be filled by teachers or superintendents employed by the board of education under limited contracts only. (1942, c. 113, 1944, c. 98)

Ritchie v. Dunn, et al., 297 Ky. 410. Teacher Tenure Act does not mean teacher must be reemployed in same school. One must show eligibility to teach in a certain district before such claim can be made. (May 2, 1944.)

161.750 Limited Contracts; When to be Entered Into; Reemployment on Expiration; Period of Contracts.—(1) A limited contract may be entered into by each board of education with each teacher who has not been in the employ of the board for at least four years and shall be entered into, regardless of length of previous employment, with each teacher employed by the board who does not hold a Standard or College Certificate.

(2) Any teacher employed under a limited contract and ineligible for a continuing contract shall at the expiration of such limited contract be deemed reemployed under the provisions of KRS 161.720 to 161.810 for the succeeding school year at the same salary plus any increment or decrease as provided by the salary schedule unless the employing board shall give such teacher written notice on or before the thirty-first day of March of its intention not to reemploy him. Such teacher shall be presumed to have accepted such employment unless he shall notify the board of education in writing to the contrary on or before the first day of May, and a contract for the succeeding year shall be executed accordingly. Provided, however, that:

(a) Beginning teachers, who have not been previously employed as a teacher in any school, shall be employed for one year only.

(b) New teachers who have had at least one year's experience as teacher in other schools may be employed from one to three years at the discretion of the board of education.

(c) Upon reemployment after the termination of the first contract and subsequent contracts the new contract may be

for not less than two years nor more than four years at the discretion of the board. (1942, c. 113, 1944, c. 98)

Teachers to be appointed after April 1, KRS 160.380.

161.760 Salaries of Teachers; Notice of; Increase or Reduction.—Each board of education shall cause notice to be given annually not later than August 1 to each teacher who holds a contract valid for the suceeding school year stating the best estimate as to the salary to be paid such teacher during such year. Such salary shall not be lower than the salary paid during the preceding school year unless such reduction be a part of a uniform plan affecting the entire district. But nothing herein shall prevent increases of salary after the board's annual notice has been given. (1942, c. 113, 1944 c. 98)

161.770 Leaves of Absence.—Upon written request of a teacher or superintendent, a board of education may grant a leave of absence for a period of not more than two consecutive school years for educational or professional purposes, and shall grant such leave where illness, maternity or other disability is the reason for the request. Upon subsequent request, such leave may be renewed by the board. Without request, a board of education may grant similar leave of absence and renewals thereof to any teacher or superintendent because of physical or mental disability, but such teacher or superintendent shall have the right to a hearing on such unrequested leave of absence or its renewal in accordance with the provisions for hearing an appeal in KRS 161.790. Upon the return to service of a teacher or superintendent at the expiration of a leave of absence, he shall resume the contract status which he held prior to such leave. (1942, c. 113, 1944, c. 98)

161.780 Termination of Contract by Teacher or Superintendent.—No teacher or superintendent shall be permitted to terminate his contract within thirty days prior to the beginning of his school term without the consent of the board; any such teacher or superintendent shall be permitted to terminate his contract at any other time when schools are not in session by giving five days' written notice to the employing board of education. Upon complaint by the employing board to the State Superintendent of Public Instruction and after investigation by him, the certificate of a teacher or superintendent terminating his con-

tract in any other manner than provided in this section may be suspended for not more than one year. (1942, c. 113, 1944, c. 98)

161.790 Termination of Contract by Board; Causes for Procedure; Suspension Pending Trial; Appeal.—(1) The contract of a teacher shall remain in force during good behavior and efficient and competent service by the teacher and shall not be terminated except for any of the following causes:

(a) Insubordination, immoral character or conduct unbecoming a teacher;

(b) Inefficiency, incompetency, physical or mental disability or neglect of duty.

Marriage of a teacher shall not be cause for termination of the contract.

(2) No contract shall be terminated except upon recommendation of the superintendent and unless the teacher is furnished with a written statement, specifying in detail the charge or charges against said teacher, signed by the proper officer of the board of education and naming a date and place at which the teacher may appear before the board of education and answer said charge or charges. Said date for the hearing shall not be less than twenty nor more than thirty days after the service of such charges upon the teacher. The teacher shall within ten days after the receipt of the written statement of such charges notify the board of education of his intention to appear and answer such charges, and upon failure of the teacher to give such notice the board of education may dismiss the teacher by a majority vote and such dismissal shall be final.

(3) Upon receipt of the teacher's notice of intention to appear and answer such charges the board of education shall issue such subpoenas as shall be necessary for the determination of the issues involved. The issues shall be heard at the time and place set and the hearing shall be public or private at the discretion of the teacher. Both parties may be represented by counsel and may require the presence of witnesses upon subpoena. Each witness shall be required to take oath or affirmation before an officer of the board of education. The board of education shall provide for a stenographic report of the proceedings and furnish the teacher with a copy. Upon completion of both sides of the case the

board of education may by a majority vote dismiss the teacher or may defer its action for not more than five days.

(4) The board of education may, on recommendation of the superintendent, suspend a teacher pending final action to terminate his contract if, in its judgment, the character of the charges warrants such action. If after the hearing the decision of the board is against termination of the contract, the suspended teacher shall be paid his full salary for the period of such suspension.

(5) The teacher shall have a right to make an appeal both as to law and as to fact to the circuit court. If said appeal is not made within thirty days after dismissal, then the decision of the board of education shall be final. Such appeal shall be an original action in said court and shall be commenced by the filing of a petition against such board of education, in which petition the facts shall be alleged upon which the teacher relies for a reversal or modification of the order of termination of contract. Upon service or waiver of summons in said appeal, such board of education shall forthwith transmit to the clerk of said court for filing a transcript of the original notice of charges and a transcript of all evidence adduced at the hearing before such board, whereupon the cause shall be at issue without further pleading and shall be advanced and heard without delay. The court shall examine the transcript and record of the hearing before the board of education and shall hold such additional hearings as it may deem advisable, at which it may consider other evidence in addition to such transcript and record. Upon final hearing, the court shall grant or deny the relief prayed for in the petition as may be proper under the provisions of KRS 161.720 to 161.810 and in accordance with the evidence adduced at the hearing. Either the teacher or the board of education may appeal from the action of the Court to the Court of Appeals. (1942, c. 113, 1944, c. 98)

Race v. Humphrey, et al., 301 Ky. 10. Evidence did not show that teacher had resigned. Individual members of school board are liable in damages for breaching the contract of a teacher employed by them. (November 20, 1945.)

161.800 Suspension of Contracts on Reducing Number of Teachers.—When by reason of decreased enrollment of pupils, or by reason of suspension of schools or territorial changes affecting the district, a board of education decides that it will be necessary to reduce the number of teachers, it shall have full authority

to make reasonable reduction. But, in making such reduction, the board shall proceed to suspend contracts in accordance with the recommendation of the superintendent of schools who shall, within each teaching field affected, give preference to teachers on continuing contracts and to teachers who have greater seniority. Teachers whose continuing contracts are suspended shall have the right of restoration in continuing service status in the order of seniority of service in the district if and when teaching positions become vacant or are created for which any of such teachers are or become qualified. (1942 c. 113, 1944, c. 98)

161.810 Continuance of Status in Case of Annexation or Consolidation of Schools.—If an entire school district or that part of a school district which comprises the territory in which a school or schools are situated is transferred to any other district, or if the schools in an independent or county school district are consolidated or centralized, the teachers in such consolidated or centralized schools employed on continuing contracts immediately prior to such transfer, consolidation, or centralization shall, subject to the limitations imposed by KRS 161.800, have continuing service status in the newly centralized or consolidated school, or in the district to which the territory is transferred. (1942, c. 113, 1944, c. 98)

161.821 Definitions for KRS 161.822 to 161.837. As used in KRS 161.822 to 161.837:

(1) The term "noninstructional employes" includes all accountants, secretaries, clerical employes, janitors, engineers, custodians, nurses, and other employes not engaged in teaching and/or research professions.

(2) The term "classified service" signifies the competitive classified civil service of the independent school districts under KRS 161.822 to 161.837.

(3) The term "commission" signifies a civil service commission created by KRS 161.822.

(4) "Civil service commissioner" shall be a member of the commission defined in subsection (3) of this section.

(5) The term "appointing authority" signifies the board of education in a city of the second class.

(6) The term "employe" signifies any person holding a position subject to appointment, removal, or promotion by the appointing authority.

(7) A "full-time employe" shall be defined as an individual who is employed a minimum of ten months in a calendar year. (1946, c. 201, § 1)

161.822 Board of Education in City of Second Class Authorized to Establish Civil Service System for Noninstructional Employes; Petition; Resolution; Creation of Commission. The board of education of independent school districts embracing a city of the second class in the Commonwealth of Kentucky is hereby authorized and empowered to establish a system of civil service applicable to and controlling the classification, employment and discharge of noninstructional employes all in the manner provided in KRS 161.822 to 161.837. When a majority of the regular and/or full-time noninstructional employes of the board of education in any independent school district embracing a city of the second class shall file with such board a petition requesting the establishment of a civil service system for such employes said board may at its next regular meeting, by resolution spread upon its minutes, recite the filing of such petition and declare the board's purpose thereby to establish and thereafter administer and operate such system of civil service by the commission hereby created under the powers herein conferred and in the manner authorized and pursuant to provisions of KRS 161.821 to 161.837. Thereupon the board of education shall appoint and constitute the civil service commission in the manner and consisting of the persons provided in KRS 161.823. (1946, c. 201, § 2)

161.823 Civil Service Commission; Membership; Appointment; Term; Vacancies; Compensation; Meetings; Quorum. (1) Upon the adoption by the board of education of any independent school district embracing a city of the second class of the resolution provided in KRS 161.822, and the appointment of the civil service commission therein provided for, there shall thereby be created in such school district a civil service commission consisting of the chairman of the board of education, the superintendent of schools, the attorney for the board of education, and two other elected and qualified members of the board to be named by the chairman. All of said appointments shall be for a period of two years. Any vacancies occurring in the membership of said commission shall be immediately filled for the unexpired terms by the chairman of the board of education. Said members of the commission, except the attorney, shall serve without compensation. The board of edu-

cation shall compensate the attorney with a sum of not less than three hundred dollars per annum nor more than six hundred dollars per annum. The chairman of the board of education shall be chairman of the commission and the superintendent of schools shall be secretary and chief examiner.

(2) The commission shall meet regularly each calendar month at such hour and at a place convenient and suitable to be designated and provided and equipped by the board of education. Special meetings may be called by the chairman or by any three members by delivering reasonable written notice to each member. A quorum of said commission shall consist of not less than three members for the transaction of such business as may come before it. (1946, c. 201, § 3)

161.824 Employes of Commission; Appropriation for Expenses. (1) Each board of education civil service commission may employ such examiners and clerical and other assistants as the secretary-chief examiner may in the judgment of the board of education require, and shall determine, by order of record, the terms of office, duties, and services to be performed and the compensation of all persons so employed.

(2) The board of education of said city, upon recommendation of the civil service commission, shall make an annual appropriation sufficient to cover all salaries and necessary expenses of said commission and its employes. (1946, c. 201, § 4)

161.825 Noninstructional Employes of Board of Education to Be Appointed from Eligibility Lists. (1) All accountants, secretaries, nurses and other clerical employes of the board of education shall be selected and appointed by the board of education from lists furnished said board by the civil service commission.

(2) All custodians, janitors, engineers, and other noninstructional employes of the board of education shall be selected and appointed by the board of education from lists previously submitted to the board for that purpose by the commission. These lists shall include only those names appearing upon the eligibility lists as provided for in KRS 161.826. (1946, c. 201, § 4)

161.826 Rules and Regulations Governing Civil Service System. Such rules and regulations shall, among other things, provide:

(1) For standardization and qualifications for all positions. All salaries shall be uniform for like grade and years of service.

Grades of service shall be standardized and classified by the board of education.

(2) For keeping minutes of its own proceedings and records of its examinations and other official actions. The commission shall prepare, continue and keep in its office, a complete roster of all persons in the classified service.

(3) For open and competitive tests, ascertaining the relative fitness of all applicants for appointment to classified positions. All tests shall be practical and related only to matters which fairly measure the relative fitness of the candidates to discharge the duties of the positions to which they seek appointment. Notice of such tests shall be given not less than ten days in advance by public advertisement in at least one newspaper of general circulation in the city and by posting a notice on the door of the board of education office.

(4) That the commission shall require persons applying for admission to any examination, provided for by KRS 161.821 to 161.837 or by the rules of the commission prescribed thereunder, to file with the commission within a reasonable time prior to the proposed examination a formal application in which the applicant shall state under oath or affirmation:

(a) Full name, residence and postoffice address.

(b) Nationality, age, and place and date of birth.

(c) Health and physical capacity for the public service sought.

(d) Business and employments and residences for five previous years.

(e) Such other information as may be reasonably required touching the applicant's merit and fitness for the public service sought; but no inquiry shall be made as to any religious or political opinions or affiliations of the applicant.

(5) That no fee or other assessment shall be charged for examination for positions. Blank forms for applications shall be furnished by the commission without charge to any persons requesting the same. The commission may require references as the good of the service may demand. The commission may refuse to examine an applicant, or after an examination to certify an eligible, who is found to lack any of the established preliminary requirements for the examination or who is physically so disabled as to be rendered unfit for the performance of the duties of the position which he seeks, or who is addicted to the habitual use of intoxicating liquors or drugs to excess, or who has been guilty of any crime or of infamous or

notoriously disgraceful conduct, or who has been dismissed from any branch of the civil service for delinquency or misconduct, or who has made false statements of any material fact, or practiced or attempted to practice, any deception or fraud in his application or in his examination, in establishing his eligibility or securing his appointment.

(6) That from the returns of the examinations the commission shall prepare an eligible list of the persons whose general average standing upon examinations for such grade or class is not less than the minimum fixed by the rules of the commission and who are otherwise eligible; and such persons shall take rank upon the eligible list as candidates in the order of their relative excellence as determined by the examination without reference to priority of time of examination. In the event of two or more applicants receiving the same mark in an examination, priority in the time of the application shall determine the order in which their names shall be placed on the eligible list. The term of eligibility of each list shall be fixed by the commission at not less than one year nor more than two years. When an eligible list is reduced to three names or less a new list shall be prepared.

(7) That any soldier, sailor, marine, or member of the Army Nurse Corps who has served in the Army, Navy or Hospital Service of the United States in the war with the central powers of Europe between the dates of April 6, 1917 and November 11, 1918, or in World War II, who has been honorably discharged therefrom and is a resident of Kentucky, upon filing with the commission a certificate of service and honorable discharge, shall receive additional grade of twenty percent to the grade he otherwise rates.

(8) For the creation of the above eligibility lists, upon which shall be entered the names of successful candidates in the order of their standing in examinations for the filling of positions by the board of education from the three candidates graded highest on such eligibility list, which list shall remain in force not longer than two years. In the absence of an appropriate eligibility list, any place may be filled temporarily by the board of education without examination for a period not to exceed six months, during which time the civil service commission shall hold the necessary examinations for the filling of the place permanently.

(9) That no person shall be appointed or employed under any title not appropriate to the duties to be discharged, and no person shall be transferred or assigned to perform any duties of any position

subject to competitive tests equivalent to that required for the position to be filled.

(10) That any person appointed from the eligibility list and laid off for lack of work shall be placed at the head of the eligibility list for reappointment for a period of eligibility as provided by the rules of the board.

(11) For a period of probation not exceeding one year before an appointment is made permanent.

(12) For reinstatement on the eligibility list of persons who, without fault or delinquencies, are separated from the service.

(13) For promotion from lower grades to the higher, based upon records of efficiency and seniority to be furnished by the superintendent of schools. (1946, c. 201, § 5)

161.827 Emergency Appointments; Promotions; Classification of Present Employes.—(1) Whenever there are urgent reasons for filling a vacancy in any position in the classified service and the commission is unable to certify to the appointing authority, upon request of the latter, a list of persons eligible for appointment after a competitive examination, the appointing authority may make a provisional appointment to fill a vacancy until a selection and appointment can be made after competitive examination; but such provision appointment shall continue in force only until regular appointment can be made from eligible lists prepared by the commission and such eligible lists shall be prepared within ninety days thereafter.

(2) Vacancies in positions in the classified service shall be filled in so far as practicable by promotions. All examinations for promotions shall be competitive. In promotional examinations efficiency and seniority in service shall form a part of the maximum mark attainable in such examination.

(3) Within six months after the civil service commission has promulgated rules provided for in KRS 161.826, all employes then in the service of the board of education are to be classified by the commission upon the basis of a recommendation from the chief examiner, and if the service of any such employe has been satisfactory to the board of education over a period of one year his appointment shall become permanent. (1946, c. 201, § 6)

161.828 Tenure of Employes; Dismissal or Suspension.—(1) Under KRS 161.821 to 161.837 tenure of employes of the board of education shall remain in force during good behavior and efficient

and competent service, and shall not be terminated except for any of the following causes: Insubordination, immoral character, conduct unbecoming the employe, inefficiency, incompetency, physical or mental disability, neglect of duty, dishonesty, drunkenness, violation of the provisions of KRS 161.821 to 161.837 or the rules of the commission.

(2) No employe shall be dismissed or suspended unless furnished with a written statement, specifying in detail the charge or charges against said employe, signed by the chairman of the board of education and naming a date and place at which the employe may appear before the board of education and answer said charge or charges. Said date for the hearing shall not be less than twenty nor more than thirty days after the service of such charges upon the employe. The employe shall within ten days after the receipt of the written statement of such charges notify the board of education of his intention to appear and answer such charges, and upon failure of the employe to give such notice the board of education may dismiss the employe by a majority vote and such dismissal shall be final.

(3) Upon receipt of the employe's notice of intention to appear and answer such charges, the board of education shall issue such subpoenas as shall be necessary for the determination of the issues involved. The issues shall be heard at the time and place set and the hearing shall be public or private at the discretion of the employe.

(4) Both parties may be represented by counsel and may require the presence of witnesses upon subpoena. Each witness shall be required to take oath or affirmation before the chairman of the board of education. The board of education shall provide for a stenographic report of the proceedings and furnish the employe with a copy. Upon completion of both sides of the case, the board of education may by a majority vote dismiss the employe or may defer its action for not more than five days.

(5) The board of education may on recommendation of the superintendent suspend an employe pending similar action to terminate his employment if, in its judgment, the character of the charges warrants such action. If after the hearing the decision of the board is against termination of employment, the suspended employe shall be paid his full salary for the period of such suspension.

(6) The employe shall have the right to make an appeal both as to law and as to fact to the circuit court. If said appeal is not made within thirty days after the final action of the board, then the

decision of the board of education shall be final. Either the employe or the board may appeal from the action of the court to the Court of Appeals. (1946, c. 201, § 7)

161.829 Prohibition Against Solicitation or Assessment, Political Activity or Acceptance of Compensation Other Than Salary.—(1) No person in the service described under KRS 161.821 to 161.837 shall directly or indirectly give, solicit, or receive or be in any manner concerned in giving, soliciting, or receiving any assessment, subscription, or contribution for any political party or for any purposes whatever. No person connected with said service shall orally or by letter solicit or in any manner be concerned in the soliciting of any assessment, subscription or contribution for any political party or for any purpose from any person holding a position under KRS 161.821 to 161.837.

(2) No person in any branch of this service shall act as an officer of any political organization or be a member thereof or take any active part in any political campaign or serve as a member of any committee of any political organization or circulate or seek signatures to any petition provided for any primary or general election or act as a worker in the polls in favor of or opposed to any candidate for election or nomination to any public office whether federal, state, county, or municipal.

(3) No member of any civil service commission, officer, or employe shall receive or accept any money or compensation not provided by law for any services or neglect of duty in addition to his salary or compensation provided for in KRS 161.821 to 161.837. (1946, c. 201, §§ 8, 12)

161.830 Political or Religious Opinions Not to Be Given Consideration.—No question in any examination held under the provisions of KRS 161.821 to 161.837 which relates to any political or religious opinions, affiliations, or service, and no appointment, transfer, promotion, increase or reduction in compensation, suspension, or removal shall be affected or influenced by such opinions or affiliations. (1946, c. 201, § 9)

161.831 Manual of Instructions.—The civil service commission created in KRS 161.822 shall provide a manual of instructions consistent with the provisions of KRS 161.821 to 161.837 for the use of persons who wish to acquire a knowledge of the rules and regulations of said commission and the duties of the members of the employes' group under KRS 161.821 to 161.837. (1946, c. 201, § 11)

161.832 Annual Notice to Employes of Salary for Coming Year; Increase or Decrease of Salary.—Each board of education shall cause notice to be given annually, not later than July 1, to each employe under KRS 161.821 to 161.837, for the succeeding school year, stating the best estimate as to the salary to be paid each employe during such year. Such salary shall not be lower than the salary paid during the preceding year unless such reduction be a part of a uniform plan affecting the entire district. But nothing herein shall prevent increases of salary after the board's annual notice has been given. (1946, c. 201, § 13)

161.833 Leave of Absence.—Upon written request of an employe a board of education may grant a leave of absence for a period of not more than two consecutive years where illness, maternity, or other disability is the reason for the request. Upon subsequent request, such leave may be renewed by the board. Upon the return to service of an employe at the expiration of a leave of absence, he shall resume the status which he held prior to such leave. (1946, c. 201, § 14)

161.834 Transfer of Employes to Other Positions.—With the consent of the commission the board of education may transfer a person holding an office or position in the classified service to a comparable position in another office, department or institution having the same pay and similar duties; but no transfer shall be made from an office or position in one class to an office or position in another class, nor shall a person be transferred to an office or position for original entrance to which there is required, by KRS 161.821 to 161.837 or the rules adopted pursuant thereto, an examination involving essential tests or qualifications or carrying a salary different from or higher than those for original entrance to an office or position held by such person. (1946, c. 201, § 15)

161.835 Corrupt Action, Impersonation or Giving of False Information Forbidden.—No person or officer shall willfully or corruptly by himself or in cooperation with one or more persons defeat, deceive or obstruct any person in respect to his or her right of examination, appointment or employment according to KRS 161.821 to 161.837, or to any rules or regulations prescribed pursuant thereto; or willfully or corruptly, falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified pursuant to the provisions of KRS 161.821 to

161.837, or aid in so doing; or willfully or corruptly make any false representations concerning the same, or concerning the person examined; or willfully or corruptly furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined, registered or certified; or personate any other person or permit or aid in any manner any person to personate him, in connection with any examination, registration, or appointment or application or request to be examined, registered or appointed; or who shall furnish any false information about himself, or any other person, in connection with any examination, registration or appointment or application or request to be examined, registered or appointed. (1946, c. 201, § 16)

161.836 Giving of Consideration for Appointment or Promotion Forbidden.—No applicant for appointment or promotion in the classified service shall, directly or indirectly, pay or promise to pay any money or other valuable thing, nor shall he ask or receive any recommendation or assistance from any person, upon the consideration of any political service to be rendered, for or on account of his appointment or promotion or proposed appointment or promotion. (1946, c. 201, § 17)

161.837 Prosecution of Violations of KRS 161.821 to 161.836.—Prosecutions for the violation of the provisions of KRS 161.821 to 161.836 or the rules and regulations of the commission established in conformity thereto shall be instituted by the Commonwealth's attorney for the county in which the offense is alleged to have been committed; and prosecutions for violations of KRS 161.821 to 161.836 and the rules and regulations of any commission, by any employe of such board shall be instituted by such commission through the legal department of the board of education. (1946, c. 201, § 18)

PENALTIES

161.990 [4503-6; 4503-8; 4506b-50] **Penalties.**—(1) Any person who violates any of the provisions of KRS 161.190 shall be fined not less than ten dollars nor more than one hundred dollars.

(2) Any teacher who violates any of the provisions of subsection (2) of KRS 161.210 shall be subject to a fine of fifty dollars and upon conviction his certificate shall be revoked.

(3) A violation of any of the provisions of KRS 161.690, is a misdemeanor and is punishable as such.

(4) Any person charged with the administration of KRS 161.821 to 161.837 who shall violate any of the provisions thereof, shall be guilty of a misdemeanor and shall upon conviction be punished by a fine of not less than fifty dollars nor more than one thousand dollars. (Subsection (4) added, 1946, c. 201, § 10)

CHAPTER IX

SCHOOL PROPERTY AND BUILDINGS

162.010 Title to school property
162.020 Transfer of property from one district to another; title not affected; district may own school in another district
162.030 Condemnation of property for school purposes
162.040 Escheated property
162.050 Use of school property for public purposes
162.060 Plans for school buildings to be approved
162.070 Contracts for buildings, improvements and materials to be let on competitive bidding
162.075 Competitive bidding unnecessary on purchases from federal government
162.080 Bond issues for school sites and buildings; authorization; election
162.090 Issuance and sale of bonds; proceeds; tax to pay
162.100 Limitation on amount of bond issue; effect of bonds issued under former laws
162.110 Bonds of subdistricts
162.120 Independent district in city may convey property to city to provide buildings
162.130 City to contract for erection of building
162.140 Lease of building by board of education; terms; amount of rent
162.150 City may erect school buildings
162.160 Plans and specifications for buildings; board of education must offer to lease building before construction contract is made
162.170 Financing construction of buildings
162.180 Bonds; interest on; when payable; how sold
162.190 Bonds negotiable; tax-exempt; signatures; not a city debt
162.200 Use of funds; lien on building
162.210 Rights of bondholders to enforce lien
162.220 Receiver in case of default
162.230 Rent; disposition of to be fixed by ordinance
162.240 Deposit and investment of sinking fund
162.250 Maintenance fund surplus to be transferred to sinking fund
162.260 Refunding bonds may be issued
162.270 Additional bonds authorized
162.280 When city to convey property to board
162.290 Alternative methods; other procedure not required
162.300 County boards of education and boards of independent districts not embracing cities may obtain school buildings in manner provided in KRS 162.120 to 162.290
162.310 State educational institution may convey building site
162.320 Contract for erection of building; grantee to enter
162.330 Lease of building; option to purchases
162.340 Governing bodies of state educational institutions may erect buildings
162.350 Erection of buildings by state educational institutions to be effected in same manner as erection of school buildings by cities
162.360 Revenue of building; how fixed; use of
162.370 Maintenance fund surplus; disposition of
162.380 Bonds are obligations of governing body; resolution constitutes contract
162.440 Insurance fund may be established by boards of education in cities of second class and in counties containing such a city

162.450 Payments into fund; replacement of expenditures; use of interest
162.460 Investment and care of insurance fund
162.470 Insurance inspector to examine buildings annually
162.480 Proof of loss; appropriations from fund
162.490 Insurance fund may be used in case of delay in payment under insurance policy
162.500 Prohibited appropriations
162.990 Penalties

CROSS REFERENCES

Fire prevention and protection for school buildings, KRS 227.030
Gifts and devises, acceptance of, KRS 160.580
Sanitary and protective construction of school buildings, Superintendent of Public Instruction to regulate, KRS 156.160
Subdistrict trustee to exercise control over school property in his subdistrict, KRS 160.120
Trust funds, use of, KRS 160.590

162.010 [4399-19] **Title to School Property.**—The title to all property owned by a school district is vested in the Commonwealth for the benefit of the district board of education. In the acquisition of land for school purposes the title shall be made in fee simple, except where land is obtained by condemnation proceedings. The title to land held by boards of education on June 14, 1934, shall be perfected at the earliest date possible. Any reversionary interest in any land used for school purposes shall not deprive boards of education of buildings or other improvements thereon.

Commonwealth to be named as grantee in deed of land to state agency or to land paid for from state funds, KRS 56.030.

Textbooks are property of state, KRS 157.150.

Board of Education of Taylor County v. Board of Education of City of Campbellsville, et al., 292 Ky. 261. Where school property held in trust for the particular purpose of educating colored children and where nothing in statutes prohibits, it is only reasonable and just that the use and control of the property should be placed under jurisdiction of the city board upon which the statutes place the duty of educating them. (November 27, 1942.)

Arnold v. Clark County Board of Education, 288 Ky. 700. Where board of education delayed giving possession of property until a certain date, meant board would give purchaser right of possession and does not require board to prohibit another claiming to have bought it from another, from taking possession under terms of his contract. (Dec. 19, 1941.)

Keeton v. Wayne County Board of Education, et al., 287 Ky. 174. Where statute in effect at time school district acquired the land required title should be made in fee simple, reversionary clause not effective because it is contrary to statute, etc. (June 10, 1941.)

Devine, et al. v. Isham, 284 Ky. 587. The court agrees with the idea: "Indeed, it is a general rule that a grant of land for a specified purpose without other words does not create a conditional estate." The court cites as evidence of this belief of the court the two cases, Williams v. Johnson, 284 Ky. 23, and Fayette County Board of Education v. Bryan, 263 Ky. 61. (Nov. 29, 1940.)

Fayette County Board of Education, et al. v. Bryan, et al., 263 Ky. 61. Schools and School Districts. Conveyance of land to school district trustees to be held so long as it should be used for school created determinable or qualified fee, subject to termination on cessation of that use, notwithstanding fact that school facilities were being provided on other lands. (March 3, 1936.)

Fayette County Board of Education, et al. v. Mollie H. Bryant, et al., 262 Ky. 61. This case involves the right of the board of education to three tracts of land which were deeded for school purposes with a reversionary clause which provided that when the property ceased to be used for school purposes that it should revert to the original owner or the original tract or to the owner of the tract from which one of the plots was taken. The deed in this case conveyed this reversionary right to the purchaser of the tract in which it was reserved.

The courts held in each case that the county board of education had no control over the property when it ceased to be used for school purposes.

Terry, et al. v. Rose, et al., 251 Ky. 314. Reverter clause could not be enforced, because land conveyed as an individual to the conveyer as an official. Such reverter prohibited by statute. (Nov. 14, 1933.)

County Board of Education for Jefferson County, et al. v. Mill Creek Methodist Church, South, et al., 242 Ky. 147. The church authorities stood by without manifesting objection to erection of a school building by county board of education. The erection of building was amply sufficient to put the church on notice of the claim of right of county board of education. The equities of the case do not authorize a restoration of that part to joint occupancy. Permissive occupancy is of negligible value. He who is silent when he should speak will not be heard when he would speak. (Jan. 26, 1932.)

Webster County Board of Education v. Gentry, 233 Ky. 35. Where deed provided that land should revert to grantor or his heirs on failure to use it for school purposes, school district forfeited title by abandoning property for school purposes, notwithstanding Kentucky Statutes, section 4437, providing that title to land for site of schoolhouse should be acquired in fee simple. (Feb. 11, 1930.)

Trustees of Congregational Church of Evarts v. Board of Trustees of Evarts Graded Common School District, 230 Ky. 94. Where board of school trustees made sale of school property to church without fraud, school trustees subsequently elected could not nearly five years after sale rescind sale because it decided it was a bad trade, since school board is a continuing body and was in the position of a natural person. (June 14, 1929.)

Lincoln Co. Bd. of Ed. v. Bd. of Trustees of Stanford Graded Common Sch. Dis., 225 Ky. 21. Property in Stanford, Kentucky, which formerly belonged to Stanford College, part of which property had been given by the Commonwealth by Act of 1798, held not to belong to the Lincoln County Court because of Kentucky Statutes, section 323, but to the property of the county board of education, so that such board could pass good title. The Lincoln County Board of Education should use the fund realized from the sale of the property formerly owned belonging to Stanford College in the erection or maintenance of a high school in Stanford. (June 5, 1928.)

Binder v. County Board of Education of Jefferson County, 224 Ky. 143. School trustees held to have obtained fee simple title to land acquired under condemnation proceedings. Where full and complete consideration is paid for land condemned by school trustees for school purposes, right of reverter does not arise except from clearest and most explicit language. School lot does not revert when ceased to be used for school purposes. (April 20, 1928.)

Breathitt County Board of Education v. Black, 214 Ky. 284. Site granted to trustees of graded common school on condition that it should revert if use for school purposes ceased, held not to revert, when under Kentucky Statutes, Supplement 1924, section 4469, subdistrict, common school was substituted in place of graded common school and succeeded to its property. (May 4, 1926.)

Duncan v. Webster County Board of Education, 205 Ky. 86. An attempt to vest reversionary right in land conveyed for school purposes out of a large tract, in whomsoever happened to own the originial tract at the time the property should cease to be used for school purposes creates a perpetuity and is invalid under section 381.220 KRS relating to suspension of the powers of alienation. (Oct. 24, 1924.)

162.020 [4399-5] **Transfer of Property from One District to Another; Title Not Affected; District May Own School in Another District.**—(1) The title to school property in territory transferred from one school district to another shall not be affected by the transfer. In case of the sale of such property the board of education to which the property belongs may allow a credit on the sale price of the property in proportion to the ratio which the school population of the transferred territory is to the total school population of the district from which the territory was transferred before the transfer was made.

(2) A board of education owning and operating a school plant in another district on June 14, 1934, may continue to own and operate the plant, and a county board of education may establish and maintain a school in an independent school district. Any in-

dependent school district may purchase school sites and establish and maintain schools outside the limits of the independent district, but independent districts containing cities of the first or second class shall not purchase school sites or establish or maintain schools outside the county in which the independent district is located.

Liability for indebtedness on transfer or annexation of school property KRS 160.065.

Board of Education of Campbell County v. Board of Education of Newport, 284 Ky. 774. Statute providing title to school property transferred from one school district to another shall remain vested in board of education of district from which territory was transferred contemplated the continuance of operation of the school district from which territory was transefferd. Since in this case it did not, the property must be divided between districts on basis of census. (Dec. 17, 1940.)

162.030 [4399-21] **Condemnation of Property for School Purposes.**—Each board of education may, when unable to contract with the owner for the purchase of any real estate necessary for school purposes, institute condemnation proceedings in the manner provided in KRS 416.010 to 416.080.

Gadberry v. County Board of Education of Russell County, et al., 209 Ky. 114. The provisions in this statute in respect to the time of appeal from the selection of a school site by a county board of education is mandatory.

Cunningham v. Shelby County Board of Education, 202 Ky. 763. After the selection of a site the court will not disturb the county board's selection simply because it is not in the exact center of the district.

Bells' Committee v. Board of Education of Harrodsburg, 192 Ky. 700, 234 S. W. 311. A board in condemning land is not limited to an acre nor to land on which there is no residence, garden, orchard, or burying ground. In estimating damages inhancement of the remainder, of the land from condemnation for school purposes must be excluded from the estimate of value, both before and after condemnation.

162.040 [4399-56] **Escheated Property.**—So much property in each school district as escheats to the state, and is not required by the provisions of Chapter 393 to be disposed of in some other manner, shall vest in the state for the use and benefit of the public schools in the district. The board of education of the district may, in the name of the state and for the use and benefit of the schools of the district, by its chairman or other officer designated by it, enter upon and take possession of the property, or sue for and recover the property by action at law or in equity. The board may sell and convey any of the property by warranty deed or otherwise.

Commonwealth, for Use and Benefit of Board of Education of Louisville, et al. v. Schultz's Unknown Heirs, et al., 268 Ky. 806. When property not disposed of by will of person dying without heirs escheats to Commonwealth and to board of education of district of his residence. (May 28, 1937.)

162.050 [4399-53] **Use of School Property for Public Purposes.**—The board of education of any school district may permit the use of the schoolhouse, while school is not in session, by any lawful public assembly of educational, religious, agricultural, political, civic or social bodies under rules and regulations which the board deems proper.

162.060 [4384-23] **Plans for School Buildings to be Approved.**—The Superintendent of Public Instruction shall be furnished a copy of all plans and specifications for new public school buildings contemplated by boards of education and for all additions to or alterations of old buildings. He shall examine or cause to be examined all such plans and specifications and shall approve or disapprove them in accordance with the rules and regulations of the State Board of Education. No board of education may award a contract for the erection of a new building or contract for an addition to or alteration of an old building until the plan has been approved by the Superintendent of Public Instruction.

Sanitary and protective construction of school buildings to be regulated by Superintendent of Public Instruction, KRS 156.160.

162.070 [4399-48] **Contracts for Buildings, Improvements and Materials to be Let on Competitive Bidding.**—The contracts for the erection of new school buildings and additions and repairs to old buildings, except repairs not exceeding $150, shall be made by the board of education to the lowest and best responsible bidder complying with the terms of the letting, after such advertisement for competitive bids as the board determines, but the board may reject any or all bids. All necessary specifications and drawings shall be prepared for all such work. The board shall advertise for bids on all supplies and equipment that it desires to purchase, except where the amount of the purchase does not exceed $250, and shall accept the bid of the lowest and best bidder, but the board may reject any or all bids.

Prevailing wages to be paid on public works, KRS 337.510.

Goin v. Board of Education, City of Frankfort, 298 Ky. 645. Building contract which required contractor to furnish all labor and material for stated price and to protect work and owner's property from loss in connection with contract, and providing for installment payments, but which made no provision for payment of any part of contract price upon completion of any specific part of the job, was an indivisible contract and contractor must bear expense of damage to building by flood in course of its construction. (November 24, 1944.)

Dance, et al. v. Board of Education of City of Middlesboro, 296 Ky. 67. Contractors must look to records of the board to determine authority of its agent. (December 3, 1943.)

162.075 Competitive Bidding Unnecessary on Purchases From Federal Government.—The provisions of KRS 162.070 shall not apply to purchases made by the boards of education within the Commonwealth of Kentucky from the United States of America, or any agency thereof. (1946, c. 187, § 1)

162.080 [4399-47] **Bond Issues for School Sites and Buildings; Authorization; Election.**—(1) Whenever a board of education deems it necessary for the proper accommodation of the schools of

its district to enlarge sites for school buildings, to purchase new sites, which in the case of independent districts may be not more than two miles without the boundary lines of the district, to improve, remodel or restore school buildings, to erect or equip new school buildings, or for any or all of these purposes, and the annual funds raised from other sources are not sufficient to accomplish the purpose, the board shall make a careful estimate of the amount of money required for the purpose and shall certify to the proper tax levying authority the fact that an election for an issue of bonds for school purposes shall be held together with the amount of money for which bonds shall be issued and the purpose to which the proceeds shall be applied. The taxing authority shall then adopt an ordinance or resolution submitting to the qualified voters of the district, the question as to whether bonds shall be issued for the purpose. The question shall be so framed that the voter may by his vote answer "For" or "Against."

(2) The ordinance or resolution shall fix the time the bonds shall run and, if a serial issue, the amount to mature at each time. It shall limit the rate of interest to be permitted on the bonds, which shall not exceed six percent, and the total amount of bonds to be issued, and shall provide for the levy of a tax to pay the interest and to create a sinking fund to retire them at their maturity.

(3) In independent districts embracing cities of the first four classes the election upon all school bonds shall be held at the next general election held not less than thirty days after the adoption of the ordinance or resolution. In other districts the election shall be held at a time fixed in the ordinance or resolution, not less than fifteen nor more than thirty days from the time the certificate of the board is filed with the tax levying authority, and reasonable notice of the election shall be given. The election shall be conducted and carried out in the school district in all respects as required by the general election laws, and shall be held by the same officers as required by the general election laws. The expense of the election shall be borne by the fiscal court except where the election is held in a district embracing a city of the first five classes, in which case the cost of the election shall be borne by the governing body of the city.

City of Ashland, et al. v. Board of Education of City of Ashland, 286 Ky. 69. Where board of education issued school bonds in excess of amount found necessary, application of surplus fund to payment of principal and interest is not prohibited by constitutional provision against diversion of tax funds. (March 28, 1941.)

Webster County Board of Education v. Hocket, et al., 267 Ky. 498. Where independent districts were merged with county district prior to repeal of statutes

authorizing county board to assume liabilities of districts of such merger, county board authorized to issue refunding bonds and not required to make levy on property of these districts to pay off such indebtedness. (March 2, 1937.)

Harris v. Holt, et al., 266 Ky. 576. Taxing district may issue bonds for indebtedness. Legality of debt must be adjudged by court of competent jurisdiction before bonds may be issued. (Dec. 15, 1936.)

Molette v. Board of Education of Van Lear Graded District, 260 Ky. 737. Uprolding a bond election and interpreting and clarifying in detail the 1934 statutes in connection with holding bond elections in independent district. (Oct. 18, 1935.)

Boll v. City of Ludlow, Etc., 234 Ky. 812. 1. Municipal Corporation.—In determining whether municipal bond issue creates indebtedness exceeding constitutional limitation, time bonds were sold is controlling, and not time of election.

2. Where people of municipality vote bond issue exceeding constitutional debt limit, only excess is void, and bonds within limitation may be issued.

3. Schools and School Dstricts.—Kind and cost of school buildings are matters to be determined by board of education.

4. School board, in submitting to voters question whether indebtedness exceeding revenue provided for shall be incurred for school building, does not surrender its discretion respecting erecting building.

5. If school bond election carries and amount voted is within constitutional limitation, board of education need not expend entire sum, but may provide smaller building. (June 17, 1930.)

City of Louisville v. Board of Education City of Louisville, 229 Ky. 325. Board of education did not have authority to equip school building from proceeds of bonds issued for erection of schools, language used in act, "to erect school houses," not conferring authority to furnish school houses. (May 7, 1929.)

Wilson v. Bd. of Ed. of City of Russellville, 226 Ky. 476. Ky. Statutes, Supplement 1928, sections KRS 94.010, 94.380, 94.390, 94.400 authorizing school districts to agree in writing to pay their proportionate part of public improvements in front of their property, held violative of Constitution, section 184, prohibiting appropriation of any part of school fund to other than common school purposes and school board could not issue bonds to pay its part of the cost of street improvements in view of Constitution, section 183. (Nov. 27, 1928.)

Davidson v. Board of Education of City of Pikeville, 225 Ky. 165. Holding of election on question of issuing bonds for school purposes on thirty-third day after filing of certificate with general council was substantial compliance with Kentucky Statutes, specifying not less than 15 nor more than 30 days from filing certificate. (June 19, 1928.)

City of Dayton v. Board of Education, 201 Ky. 566. Indebtedness of a municipality is not to be taken into account in estimating the indebtedness of the school board of the district, which covers the same territory.

A delay of three years by a board of education after bonds were voted before certifying the matter to the city council, abandoned no right and the city may be required to prepare and authorize the bonds, in view of the conditions prevailing in the building trade. (Nov. 13, 1923.)

Shaw v. City of Mayfield, 191 Ky. 389, 230 S. W. 539. Unpaid bonds of the city of Mayfield continued to be its debt, and did not become a debt of the school district created by this statute.

Coppin and the City of Covington v. Board of Education of the City of Covington, 155 Ky. 387. Bonds issued by the board of education of cities of the second class under this act are obligations of the board of education and the amount thereof is not to be considered in determining whether the city has reached its maximum constitutional debt limit.

162.090 [4399-47] **Issuance and Sale of Bonds; Proceeds; Tax to Pay.**—(1) If two-thirds of those voting on the question vote in favor of the proposition, the bonds shall be issued. The bonds shall be designated "School Improvement Bonds." They shall be placed under the control of the board of education, and the board shall determine when, at what price and how the bonds shall be sold, the date, number of bonds, denomination, whether coupon or registered, the rate of interest, the frequency and place of payment of principal and interest, and other details as desired, embodied in the bonds or in the ordinance providing for their issue. The board shall certify the matters so determined to the tax levying authority. The taxing authority shall at once adopt an ordinance in conformity therewith and cause the bonds to be at once properly prepared and

executed and turned over to the board of education for sale and delivery. The bonds shall be signed by the chairman and secretary of the board of education and shall not be sold for less than par and accrued interest. As the bonds are sold, their proceeds shall be placed to the credit of the board of education in a depository designated by the board of education, and shall be kept in a separate account. The depository shall be required to execute proper bond covering the funds.

(2) The tax levying authority of the district shall, in addition to the levy made for the maintenance of schools, levy annually a tax sufficient to raise a sum for the payment of the interest and to create a sinking fund for the payment of the bonds at maturity. The bonds shall be a charge upon the school district, except in independent districts embracing cities of the first and second classes, in which the bonds shall be a charge upon the sinking fund of the city and the city shall be entitled to have the annual sinking fund tax provided for in this section.

City of Ashland, et al. v. Board of Education of City of Ashland, 286 Ky. 69. Where board of education issued school bonds in excess of amount found necessary, application of surplus fund to payment of principal and interest is not prohibited by constitutional provision against diversion of tax funds. (March 28, 1941.)

Harris v. Holt, et al., 266 Ky. 576. Taxing district may issue bonds for indebtedness. Legality of debt must be adjudged by court of competent jurisdiction before bonds may be issued. (Dec. 15, 1936.)

Lee v. Board of Education of Bell County, 261 Ky. 379. Debt which arose from unexpected decrease in value of property of county school district held a valid obligation as regards validity of bonds authorized to fund such obligations. (Nov. 19, 1935.)

Katterjohn v. Board of Education of the City of Paducah, 202 Ky. 690. A board of education in a city of the second class gave a bonus to a contractor for the speedy erection of a school building. By sections 3235a-1 to 3235a-42 the board was not conferred any authority to give such bonus and the provision in the contract allowing it is void under section 162 of the Constitution, which provides that a municipality cannot pay any claim under any agreement or contract made, without express authority of law. (May 22, 1923.)

162.100 [4399-47] **Limitation on Amount of Bond Issue; Effect of Bonds Issued Under Former Laws.**—(1) The bond issue of any district shall not exceed the limits provided in the Constitution, such limitation to be estimated upon the assessment next before the last assessment previous to the incurring of the indebtedness.

(2) All of the bonds voted by the various types of school districts and sub-districts prior to June 14, 1934, shall be retired and the interest paid thereon in accordance with the laws under which they were voted, and nothing in KRS 162.080 to 162.100 shall in any way impair any of such bond obligations or the interest thereon.

Constitutional limits on indebtedness, Const. 157, 158.

Morgan, et al. v. Fayette Board of Education, et al., 294 Ky. 597. Where board of education had conveyed land to corporation which erected school building thereon, issued revenue bonds, and leased the building to board for one year with option to renew upon such terms that the property would be reconveyed to

board with the improvements, county was authorized to accept title to the property and to issue revenue liquidating bonds to cover the cost thereof including several properties in one mortgage and bond issue and to exchange the bonds to corporation's bondholders or to sell the bonds at public sale and to lease the properties to board under terms similar to the original financing scheme. (May 28, 1943.)

Nelson v. Williamsburg Independent Graded School District, et al., 265 Ky. 792. Where bonds have been issued in excess of legal limit of indebtedness additional bonds cannot be issued to take place of those which have been called for payment. (Oct. 27, 1936.)

Hagar, Mayor, et al. v. Cisco, 256 Ky. 708. Acts of 1934, Chapter 65, Article 5, Section 42, provides that all bonds voted by the various types of school districts and subdistricts prior to the passage of this act shall be retired and the interest paid thereon in accordance with the laws under which they voted.

School bond issue authorized and voted by the city (of second class) in 1929, did not then become indebtedness or obligation of city, nor did it become such until and to the extent that parts of such authorized bond issue were later issued and sold. (Nov. 23, 1934.)

Boll v. City of Ludlow, 227 Ky. 208. Raising limit of indebtedness which may be incurred by school district from 2% to 4%, being invalid under Constitution, section 158, limiting issue of bonds for school purposes in excess of 2% of assessed valuation. (Dec. 21, 1928.)

Clere v. Board of Education of City of Ashland, 211 Ky. 130. Act fixing smaller debt limitation than that fixed by Constitution not invalid. The constitional provision is simply a limitation on the legislatve power, and not a grant of power to the municipality. (Nov. 10, 1925.)

162.110 [4399-13] **Bonds of Subdistricts.**—The board of education of any county school district may at any time submit to the voters of any one of its subdistricts or of any group of its subdistricts the question of whether or not the board shall issue and sell bonds of the subdistrict or group of subdistricts in an amount not exceeding the limit provided by § 158 of the Constitution, for the purpose of buying a site or building or equipping a school building for such subdistrict or subdistricts, and of whether or not the board shall levy annually a school tax on each one hundred dollars of taxable property within the district, as valued in the assessment for local school purposes next preceding the levy of the tax, to pay the interest on the bonds and to create a sinking fund for the retirement of the bonds at their maturity. The election for this purpose shall be called and conducted in accordance with the provisions of KRS 160.150, and may, in the discretion of the county board of education, be called at the same time and place as an election called under KRS 160.150, and conducted by the same election officers. The tax, if approved by two-thirds of the votes cast on the question, shall be collected and settled for as provided in KRS 160.150. The tax shall be set aside and used by the board of education solely for interest and sinking fund purposes.

Hoagland v. Henry County Board of Education, et al., 230 Ky. 75. Election for voting bonded indebtedness to determine whether voters of school district were willing to incur annual tax levy not exceeding 25c on the $100 held not invalid because part of fund raised was to constitute sinking fund for extinguishment of bonds, and in payment of interest and remainder was to be used for maintenance of school, as against contention that tax for maintenance under laws of 1926, chapter 82, section 2 (Kentucky Statutes, Supplement 1928, section 4426-2), required only majority of votes while bond issue required two-thirds majority under section 3 (Kentucky Statutes, 1928, section 4426-3), since when

bond issue is contemplated, election must be held under section 3, and in such election it is unnecessary that two purposes of levy be voted for separately. (June 14, 1929.)

Travelstead v. Ray, Sheriff, Etc., 169 Ky. 706. Where there has been a full, free and fair school election and the voters understand the question to be voted on and have ample notice of the time and place, when and where the election is to be held, there is little reason for disturbing the election on mere technical grounds.

BUILDINGS IN CITIES OF ANY CLASS

162.120 [4421-1] **Independent District in City May Convey Property to City to Provide Buildings.**—For the purpose of providing buildings for school purposes, boards of education of school districts embracing a city of any class may convey to the city a fee simple title with covenant of general warranty to a site now held or hereafter acquired by such boards of education.

Any city authorized to establish or maintain Public Works Cumulative Reserve Fund. KRS 66.410—Term "Public Works" of this act includes schools. 66.430 KRS.

City of first class may set apart land for municipal university, KRS 165.060.

Board of Education of City of Catlettsburg, et al. v. City of Catlettsburg, et al., 275 Ky. 797. Evidence held to authorize finding that the particular money claimed by the school board was a gift and hence need not be paid to board of education. (Nov. 9, 1938.)

Piggott v. Kasey, et al., 271 Ky. 651. Where bonds for school purposes were issued by city and later school merged with county district the bonds were valid and county board assumed alli obligation of the independent district board. Bonds may be sold to private persons. (March 17, 1938.)

Davis v. Board of Education of City of Newport, et al., 260 Ky. 294. Thirty-year lease of school building to board on condition of paying $15,000 a year until all rentals paid on condition that building would be conveyed to board held unconstitutional. Lease of building to board by city for annual rental which does not exceed budget for year constitutional. (May 31, 1935.)

162.130 [4421-2] **City to Contract for Erection of Building.**—Every city to which a site for a building has been conveyed, as provided in KRS 162.120, shall enter into a contract or contracts with some person for the erection on the site of a building with the necessary appurtenances, according to plans and specifications adopted by the city and approved by the board of education and the Superintendent of Public Instruction.

162.140 [4421-3] **Lease of Building by Board of Education; Terms; Amount of Rent.**—Immediately upon the approval of the plans and specifications as provided in KRS 162.130, the board of education shall offer to lease the building for a term of one year from the time the building is completed and ready for occupancy. The lease by its terms shall give the lessee the right and option to extend the term of the lease from year to year, for periods of one year, until the original term of the lease has been extended for a total number of years, acceptable to the city, not exceeding thirty years, at a rental which, if paid for the original term and for each

of the full number of years for which the term is extended, will amortize the total cost of the erection of the building and appurtenances, provide an adequate maintenance fund and in addition thereto a sum sufficient to pay the cost of insuring the building against loss or damage by fire and wind storm or other calamity in such sum as may be agreed by the parties thereto.

Morgan, et al. v. Fayette Board of Education, et al., 294 Ky. 597. Where board of education had conveyed land to corporation which erected school building thereon, issued revenue bonds, and leased the building to board for one year with option to renew upon such terms that the property would be reconveyed to board with the improvements, county was authorized to accept title to the property and to issue revenue liquidating bonds to cover the cost thereof including several properties in one mortgage and bond issue and to exchange the bonds to corporation's bondholders or to sell the bonds at public sale and to lease the properties to board under terms similar to the original financing scheme. (May 28, 1943.)

162.150 [4421-5] **City May Erect School Buildings.**—Any city may establish and erect school buildings and necessary appurtenances within the corporate limits under the provisions of KRS 162.160 to 162.280, for the purpose of supplying the board of education of the independent district embracing the city with adequate buildings necessary to carry out its duties and powers.

City of first class may set apart land for municipal university KRS 165.060.

162.160 [4421-12] **Plans and Specifications for Buildings; Board of Education Must Offer to Lease Building Before Construction Contract is Made.**—(1) When any city desires to construct a school building, under the provisions of KRS 162.150, the governing body of the city shall, by ordinance, cause plans and specifications for the building to be duly made and filed in the office of the city clerk. The plans and specifications shall give a full description of the building to be constructed, the details thereof and the manner of construction. The plans and specifications shall be prepared by an architect selected by the city and approved by the board of education of the school district, and shall be submitted to the board of education of the school district and to the Superintendent of Public Instruction for approval.

(2) If the plans and specifications are approved, and if the board of education of the school district offers to lease the building under a lease of the kind provided in KRS 162.140, the city governing body shall cause the city clerk to advertise for bids, and thereafter the city governing body, through the mayor or chairman of the board of trustees, may contract for the construction of the building.

Public works involving two thousand dollars or more to be under supervision of registered engineer or architect, KRS 322.360.

162.170 [4421-6; 4421-12] **Financing Construction of Buildings.**—For the purpose of defraying the cost of constructing or acquiring any school buildings and appurtenances thereto, under the provisions of KRS 162.150, any city may borrow money from the Public Works Administration or other agency of the Federal Government and issue negotiable bonds. No such bonds shall be issued until the conditions of KRS 162.160 have been complied with, and until authorized by an ordinance specifying the proposed undertaking, the amount of bonds to be issued, and the maximum rate of interest the bonds are to bear, not exceeding six percent per annum. The ordinance shall further provide that the buildings and appurtenances are to be constructed or acquired under the provisions of KRS 162.150 to 162.280.

Piggott v. Kasey, et al., 271 Ky. 651. Where bonds for school purposes were issued by city and later school merged with county district the bonds were valid and county board assumed all obligation of the independent district board. Bonds may be sold to private persons. (March 17, 1938.)

162.180 [4421-7; 4421-8] **Bonds; Interest on; When Payable; How Sold.**—All bonds issued under the provisions of KRS 162.170 may bear interest at a rate not exceeding six percent per annum, payable semiannually, and shall be executed in such manner and be payable at such times, not exceeding thirty years from the date thereof, and at such place as the governing body of the city determines. The bonds shall be sold in such manner and upon such terms as the governing body of the city deems for the best interest of the city.

162.190 [4421-8] **Bonds Negotiable; Tax-Exempt; Signatures; Not a City Debt.**—All bonds issued under the provisions of KRS 162.170 shall have all of the qualities of negotiable instruments, and shall not be subject to taxation. If any of the officers whose signatures appear on the bonds or coupons cease to be such officers before delivery of the bonds, the signatures shall nevertheless be valid for all purposes the same as if the officers had remained in office until delivery. The bonds shall be payable solely from the revenue derived from the school building as provided in KRS 162.230, and shall not constitute an indebtedness of the city within the meaning of the constitutional provisions or limitations. It shall be plainly stated on the face of each bond that it was issued under the provisions of KRS 162.150 to 162.280 and that it does not constitute an indebtedness of the city.

162.200 [4421-9] **Use of Funds; Lien on Building.**—All money received from any bonds issued pursuant to KRS 162.170 shall be used solely for the establishment or erection of the school building and necessary appurtenances, except that the money may be used also to advance the payment of the interest on bonds during the first three years following the date of the bonds. There shall be a statutory mortgage lien upon the school building and appurtenances in favor of the holders of the bonds and coupons.

162.210 [4421-10] **Rights of Bondholders to Enforce Lien.**—The school building and appurtenances shall remain subject to the statutory lien provided by KRS 162.200 until the payment in full of the principal and interest of the bonds. Any holder of the bonds or of any of the coupons may, either at law or in equity, protect and enforce the lien, and may by action enforce and compel performance of all duties required by KRS 162.150 to 162.280, including the making and collecting of sufficient rents, the segregation of the income and revenue, and the application thereof.

162.220 [4421-11] **Receiver in Case of Default.**—If there is any default in the payment of the principal or interest on any of the bonds, any court having jurisdiction of the action may appoint a receiver to administer the school building on behalf of the city, with power to charge and collect rentals sufficient to provide for the payment of any bonds or obligations outstanding against the school building and for the payment of the operating expenses, and to apply the income and revenues in conformity with KRS 162.150 to 162.280, and the ordinance referred to in KRS 162.170 and 162.230.

162.230 [4421-13; 4421-17] **Rent; Disposition of to be Fixed by Ordinance.**—At or before the issuance of the bonds, the governing body of the city shall, by ordinance, set aside and pledge the income of the building into a special fund to be used and applied in payment of the cost and maintenance of the building. The ordinance shall definitely fix the amount of revenue necessary to be set aside and applied for the payment of the principal and interest of the bonds. The balance of the income shall be set aside for the reasonable and proper maintenance of the building, including a sufficient sum to pay the cost of insurance. The city governing body may provide by ordinance any provision and stipulation it deems necessary for the administration of the income for the security of the bondholders.

162.240 [4421-17] **Deposit and investment of sinking Fund.**—The sinking fund shall be deposited in a depository selected by the governing body of the city. The deposit, where practicable, shall be continuously secured by a pledge to the city of direct obligations of the United States, exclusive of accrued interest, at all times at least equal to the balance on deposit in the account, or in some other manner acceptable to the purchasers or holders of the bonds. The securities shall be deposited with the city or held by a trustee or agent satisfactory to the governing body of the city. The sinking fund may be invested in direct obligations of the United States.

162.250 [4421-14] **Maintenance Fund Surplus to be Transferred to Sinking Fund.**—If a surplus is accumulated in the maintenance fund equal to the cost of maintaining the building during the remainder of the calendar or fiscal year, as may be provided by the ordinance required by KRS 162.230, and the cost of maintaining and operating the building for the succeeding like calendar or fiscal year, the excess over such amount shall be transferred to the sinking fund.

162.260 [4421-15] **Refunding Bonds May be Issued.**—The city may issue refunding bonds for the purpose of providing funds for the payment of any outstanding bonds, in accordance with the procedure prescribed for the issuance of the original bonds. The refunding bonds shall be secured to the same extent and shall have the same source of payment as the bonds which are refunded.

162.270 [4421-16] **Additional Bonds Authorized.**—If the governing body of the city finds that the bonds authorized will be insufficient to accomplish the purpose desired, additional bonds may be authorized and issued subject to the same procedure.

162.280 [4421-18] **When City to Convey Property to Board.**—When the board of education of the school district has paid rent, as provided in KRS 162.160, sufficient to amortize the cost of erection of the building and appurtenances and to maintain the building and pay the cost of insurance, the city shall thereupon convey the premises to the board, and shall transfer any balance remaining in the funds provided for in KRS 162.230 to 162.250 to the account of the board of education.

162.290 [4421-4; 4421-19] **Alternative Methods; Other Procedure Not Required.**—KRS 162.120 to 162.140 and KRS 162.150 to 162.280 are additional and alternate methods for the acquisition of

school buildings by boards of education of independent districts embracing cities of any class, and do not include, alter, amend or repeal any other statute. No proceedings shall be required for the acquisition of any school building or the issuance of bonds under KRS 162.150 to 162.280 except such as are prescribed by those sections.

Davis v. Board of Education of City of Newport, et al., 260 Ky. 294. Thirty-year lease of school building to board on condition of paying $15,1000 a year unti all rentals paid on condition that building would be conveyed to board held unconstitutional. Lease of building to board by city for annual rental which does not exceed budget for year constitutional (May 31, 1935.)

BUILDINGS IN COUNTY AND CERTAIN INDEPENDENT DISTRICTS

162.300 [4421.20 to 4421-38] **County Boards of Education and Boards of Independent Districts Not Embracing Cities May Obtain School Buildings in Manner Provided in KRS 162.120 to 162.290.—** County boards of education and boards of education of independent districts not embracing a city of any class may obtain buildings for school purposes by proceeding under the provisions of KRS 162.120 to 162.290 , except that the provisions of KRS 162.120 to 162.140 may be used only for the construction of school buildings with financial assistance from the Federal Government. When applied to such boards of education, KRS 162.120 to 162.290 shall be so read that the term:

(1) "City" means "county."

(2) "City clerk" means "county clerk."

(3) "Governing body of the city" means "fiscal court."

(4) "Mayor or chairman of the board of trustees" means "county judge."

(5) "Ordinance" means "resolution."

Morgan, et al. v. Fayette Board of Education, et al., 294 Ky. 597. Where board of education had conveyed land to corporation which erected school building thereon, issued revenue bonds, and leased the building to board for one year with option to renew upon such terms that the property would be reconveyed to board with the improvements, county was authorized to accept title to the property and to issue revenue liquidating bonds to cover the cost thereof including several properties in one mortgage and bond issue and to exchange the bonds to corporation's bondholders or to sell the bonds at public sale and to lease the properties to board under terms similar to the original financing scheme. (May 28, 1943.)

Board of Education of Guthrie Independent Graded School Dist. v. Todd County Board of Education, et al., 289 Ky. 803. Where board of education is naked trustee of property for the benefit of colored district or people, the colored district, as equitable owner, was entitled to the proceeds of an insurance policy as against claim that policy was a personal contract insuring to the benefit of the board of education. (March 13, 1942.)

Piggott v. Kasey, et al., 271 Ky. 651. Where bonds for school purposes were issued by city and later school merged with county district the bonds were valid and county boards assumed all obligation of the independent district board. Bonds may be sold to private persons. (March 17, 1938.)

Fiscal Court of Jackson County, et al. v. Board of Education of Jackson County, 268 Ky. 336. This contract to lease a building provides for continuance

from year to year and is illegal. It could be remedied by making lease for one year. (April 30, 1937.)

Franklin County, et al. v. Franklin County Board of Education, 267 Ky. 554. Board of Education rather than Fiscal Court held to have power and duty to determine site for high school building. (March 5, 1937.)

Bellamy v. Bd. of Edu., 255 Ky. 447, 74 S. W. (2d) 920. County board of education has power to convey good title to educational corporation which will build school on property and lease same back to county board on a yearly basis with option to renew each year until enough rental is paid that corporation will convey property and school to county board. The department of public property has nothing to do with such transaction. (Sept. 25, 1934.)

BUILDINGS BY STATE EDUCATIONAL INSTITUTIONS

162.310 [4535cc-1] **State Educational Institution May Convey Building Site.**—For the purpose of providing buildings to be used in connection with any state educational institution, the governing body of the institution may convey to any person complying with KRS 162.320 and 162.330 a fee simple title, with covenant of general warranty of title, to real estate held by or for the institution, as a site for the buildings.

McDonald v. Univ. of Kentucky, 225 Ky. 205, 7 S. W. (2d) 1046. This act is constitutional. (June 22, 1928.)

162.320 [4535cc-2] **Contract for Erection of Building; Grantee to Enter.**—Every person to whom a site for a building is conveyed pursuant to KRS 162.310 shall immediately enter into a written contract with some person approved by the governing body of the state educational institution, for the immediate erection on the site of a building with the necessary appurtenances, according to plans and specifications approved by the governing body of the state educational institution. The contract shall provide the time when the building shall be completed. The contractor shall enter into bond with the Commonwealth for the benefit of the state educational institution in the penal sum of not less than twtnty-five percent of the contract price for the completion of the work in the manner and within the time set out in the contract.

162.330 [5435cc-3] **Lease of Building; Option to Purchase.**—Immediately upon the execution of the contract provided for by KRS 162.320, the person to whom the site is conveyed shall execute, acknowledge and deliver to the governing body of the state educational institution, a lease of the site and the building to be erected thereon, for a term of one year from the time the building is completed and ready for occupancy, with an option in the lessee to extend the term of the lease for a term of one year from the expiration of the original term of the lease and for one year from the expiration of each extended term of the lease, until the original term of the lease has been extended for a total number of years to be agreed

upon by the parties at a rental which, if paid for the original term and for each of the full number of years for which the term of the lease may be extended, will amortize the total cost of the erection of the building and appurtenances. The rent shall be paid at such times as the parties to the lease agree upon. The lease shall provide that the lessee may, at the expiration of the original or any extended term, purchase the leased premises at a stated price, which shall be the balance of the total cost of the erection of the building and appurtenances not amortized by the payments of rent previously made by the lessee. The lease shall provide that in the event of the exercise of the option to purchase the leased premises or in the event the lease has been extended for the full number of years which it is agreed the same may be extended, and all rents and payments provided for in the lease have been made, the lessor shall convey the premises to the lessee in fee simple with covenant of general warranty of title. The lease may provide that the lessee shall, as additional rent for the leased premises, pay all taxes assessed against the leased premises, and the cost of insuring the building erected thereon against loss or damage by fire and windstorm in such sum as may be agreed by the parties thereto.

162.340 [4535m-1] **Governing Bodies of State Educational Institutions May Erect Buildings.**—The governing body of any state educational institution may, under the provisions of KRS 162.350 to 162.380, erect buildings and appurtenances to be used in connection with the institution for educational purposes.

162.350 [4535m-2 to 4535m-8; 4535m-10 to 4535m-12; 4535m-14] **Erection of Buildings by State Educational Institutions to be Effected in Same Manner as Erection o School Buildings by Cities.** —The governing body of a state educational institution erecting a building pursuant to KRS 162.340 is subject to the provisions of KRS 162.170 to 162.240, KRS 162.260, 162.270 and 162.290, except that part of KRS 162.170 that requires compliance with KRS 162.160. When so applied, those sections shall be so read that:

(1) "City" means "state educational institution."

(2) "Ordinance" means "resolution."

(3) "Governing body of the city" means "governing body of the institution."

(4) "School buildings" means the type of buildings contemplated by KRS 162.340.

(5) "Thirty years," in KRS 162.180, means "forty years."

(6) "KRS 162.230," in KRS 162.190 and 162.220, means "KRS 162.230, 162.360 and 162.370."

(7) "KRS 162.150 to 162.180" means "KRS 162.350 to 162.380."

J. D. Van Hooser and Co., et al. v. University of Kentucky, 262 Ky. 581. Statutes authorizing state educational institutions to construct and finance buildings held valid, etc. (Feb. 11, 1936.)

162.360 [4435m-8] **Revenue of Building; How Fixed; Use of.**—The governing body of a state educational institution erecting a building and appurtenances under the provisions of KRS 162.340 shall, by resolution, fix the rents, tolls, fees and other charges to be imposed in connection with the building or services to be furnished by it, and provide that the governing body of the institution shall monthly, as the service accrues, pay from the current funds of the institution into the special fund provided by KRS 162.230, as that section is made applicable by KRS 162.350, the reasonable cost and value of any service rendered to the educational institution by the building in furnishing any educational facilities necessary in the operation of the educational institution. The resolution shall definitely fix the amount of revenues necessary to be set apart and applied to the payment of the principal and interest of the bonds, and the balance of the income and revenues shall be set aside as a proper maintenance fund, including a sufficient sum to pay the cost of insuring the building against loss or damage by fire and windstorm or other calamity in a sum acceptable to the purchasers of the bonds. The charges for the services from the building shall be sufficient to provide for the payment of interest upon all bonds and to create a sinking fund to pay the principal as it becomes due, and to provide for the operation and maintenance of the building. The charges shall be revised from time to time so as to produce these amounts.

J. D. Van Hooser and Co., et al. v. University of Kentucky, 262 Ky. 581, Statutes authorizing state educational institutions to construct and finance buildings held valid, etc. (Feb. 11, 1936.)

162.370 [4535m-9] **Maintenance Fund Surplus; Disposition of.**—If a surplus is accumulated in the maintenance fund equal to the cost of maintaining the building during the remaining portion of the calendar or fiscal year, as may be provided by the resolution adopted under KRS 162.360, and the cost of maintaining and operating the building the succeeding like calendar or fiscal year,

the excess over such amount may be transferred at any time by the governing body to the sinking fund or may be used for any improvements, extensions or additions to the building.

162.380 [4535m-13] **Bonds are Obligations of Governing Body; Resolution Constitutes Contract.**—The bonds issued under authority of KRS 162.350 shall be obligations only of the governing body of the institution, payable from the revenues of the building. In no event shall they be considered a debt for which the credit of the state is pledged. Any resolution adopted under the provisions of KRS 162.350 or 162.360 shall constitute a contract between the governing body of the institution and the holder of any bond or coupon, and shall be binding in all respects upon the governing body of the institution and its successors.

162.440 [3219a-1] **Insurance Fund May be Established by Boards of Education in Cities of Second Class and in Counties Containing Such a City.**—The Board of Education of any city of the second class or of a county containing a city of the second class may, by resolution, establish a fund to be known as the "Insurance Fund" after written approval of the plan to administer said fund has been secured from the Superintendent of Public Instruction. The resolution shall state and fix the maximum limit of the fund. The fund shall be maintained separate from the other funds and moneys of the board, and shall be used exclusively for replacing or repairing any injury or destruction to any of the buildings owned by the board or to their contents when caused by fire, tornado, windstorm, cyclone, casualty, explosion, riot or flood, but not when caused by wear and tear or the natural processes of decadence or deterioration. (1944, c. 31)

Insurance of state property, KRS 56.070 to 56.180.

162.450 [3219a-2] **Payments into Fund; Replacement of Expenditures; Use of Interest.**—The Board of Education of a city of the second class, or of a county containing a city of the second class, may raise the maximum limit of the insurance fund from time to time as it deems best. Until the amount in the fund equals the maximum limit, the Board of Education shall each year, from the revenues under its control, set apart to the fund a sum equal to from one-twentieth to one-tenth of the maximum limit of the sum. When any portion of the fund is used, payments to restore the fund shall at once be begun and be continued until the restoration is complete. When the fund is, for any reason, below the maxi-

mum limit, the interest derived from the investment thereof shall be accumulated and added to the fund; otherwise the interest may be transferred to the general funds of the board. (1944, c. 31)

162.460 [3219a-3; 3219a-5] **Investment and Care of Insurance Fund.**—The insurance fund shall be kept on deposit with the treasurer of the Board of Education, unless by order of the board it is invested in the United States, State, County, or City bonds that are not payable from assessments, and are registered, if practicable. If the bonds are coupon bonds they shall be kept deposited in a safe deposit vault and be opened only by the business manager or secretary of the board in the presence of a member of the board authorized to represent it. Every vote upon the use or investment of any portion of the fund shall be by call of the yeas and nays and the record shall show how each member voted. (1944, c. 31)

Investment of sinking funds in United States Bonds authorized, KRS 386.050.

162.470 [3219a-4] **Insurance Inspector to Examine Buildings Annually.**—The board of education shall cause every building to be carefully examined annually by a competent insurance inspector. The inspector shall make a written report of the result of his examination with recommendations.

162.480 [3219a-5] **Proof of Loss; Appropriations from Fund.**—When an injury occurs to any building or its contents from fire, tornado, windstorm, cyclone, casualty, explosion, riot or flood, the business director or secretary of the Board of Education shall, within thirty days thereafter, prepare and file with the board a sworn written proof of loss, showing in detail the items of injury, and in detail an estimate of the extent of the financial loss and whether and to what extent the same is covered by insurance, with the names of the companies, the number of the policies and names of the agents. Before the Board of Education may appropriate any portion of the insurance fund, a committee appointed by the board shall report to the board in writing, answering in detail the following questions and making such recommendations as they deem best:

1. What is the entire loss on the building? When and what caused it?
2. What deduction should be made for wear and tear and the natural processes of decadence or deterioration?

3. What portion of the loss proposed to be made good from this fund resulted from causes covered by this fund?
4. Will it be practicable to make the restoration from the general fund and the proceeds of any insurance policies without assistance from this fund?
5. If assistance is needed from this fund, how much? How will the portion so used be returned to the fund?
6. Does or does not the committee recommend an appropriation from this fund to aid in the restoration proposed? If so, how much? (1944, c. 31)

162.490 [3219a-6] **Insurance Fund May be Used in Case of Delay in Payment Under Insurance Policy.**—In case any insurance company delays in paying to the board of education the amount of any loss under a policy the board may, on the recommendation of its building and finance committee, appropriate out of the insurance fund a sum not exceeding the amount of the probable loss under the policy to aid in the prompt restoration of the loss. In no event shall the amount drawn from the insurance fund exceed the amount collectible from the policy. A resolution shall be adopted setting over to the insurance fund the proceeds of the policy or sufficient thereof to replace the amount so used, and the proceeds when collected shall be so used and not otherwise.

162.500 [3219a-7] **Prohibited Appropriations.**—No member of the board of education shall vote for, and no officer of the board shall certify to or draw a check for, an appropriation in violation of KRS 162.440 to 162.490.

162.990 [3219a-7] **Penalties.**—Any person who violates any of the provisions of KRS 162.500 is liable to the board of education, in an action brought by the board of education, or by any citizen of the district, or by the Superintendent of Public Instruction, for the restoration of the wrongful appropriation. In addition he is guilty of malfeasance in office and upon conviction shall forfeit his office, and may for each offense be fined not less than fifty dollars nor more than one thousand dollars, or imprisoned from one to five years, or both so fined and imprisoned. One-half of the fine shall be paid to the board of education by the collecting officer.

CHAPTER X

VOCATIONAL EDUCATION AND REHABILITATION

163.010 Definitions
163.020 Federal Acts relating to vocational education and rehabilitation accepted
163.030 State Board of Education to administer Federal Acts
163.040 Appropriations for vocational education and rehabilitation
163.050 Personnel; rules and regulations
163.060 Residence requirement for eligibility for rehabilitation
163.070 State Treasurer custodian of funds
163.080 Donations may be received
163.090 Mayo State Vocational School
163.100 Northern Kentucky State Vocational School

CROSS REFERENCES

Director of Vocational Education is member of State Soil Conservation Committee, KRS 262.030
Machinery for manual training, regulations as to use of, KRS 339.130

163.010 [4526-5] **Definitions.**—As used in this chapter:

(1) "Disabled person" means any person who by reason of a physical defect or infirmity acquired by accident, injury or disease is or may be expected to be totally or partially incapacitated for remunerative occupation.

(2) "Rehabilitation" means the rendering of a disabled person fit to engage in a remunerative occupation.

163.020 [4526-1] **Federal Acts Relating to Vocational Education and Rehabilitation Accepted.**—This state accepts and agrees to comply with all the provisions of the Acts of Congress of the United States approved February 23, 1917 (39 Stat. 929), June 2, 1920 (41 Stat. 735), and June 8, 1936, relating to vocational education and rehabilitation.

163.030 [4526-2] **State Board of Education to Administer Federal Acts.**—The State Board of Education is vested with authority to carry out the purposes and provisions of the Acts of Congress accepted by KRS 163.020, and is given all necessary power and authority to cooperate with the Federal agencies administering vocational education and rehabilitation in carrying out the provisions of those Acts.

163.040 [4526-3] **Appropriations for Vocational Education and Rehabilitation.**—Money appropriated by the General Assembly for carrying out the provisions of KRS 163.010 to 163.080 shall be pay-

able to such institutions and in such amounts as is designated by the State Board of Education in accordance with Federal rules and regulations.

163.050 [4526-4] **Personnel; Rules and Regulations.**—(1) The State Board of Education shall appoint and fix the duties, compensation and tenure of all administrative, supervisory and clerical assistants it deems necessary to carry out the provisions of KRS 163.010 to 163.080, the appointments to be made in the same manner as provided by law for other similar assistants in the Department of Education. The assistants shall be reimbursed for necessary traveling expenses incurred in the performance of their official duties.

(2) The State Board of Education, on the recommendation of the Superintendent of Public Instruction, may make such rules and regulations as it deems necessary for the effective carrying out of the provisions of KRS 163.010 to 163.080. The rules and regulations shall be published and the board may prepare and print such courses of study and make such reports as it deems necessary for carrying out the provisions of the Federal Acts accepted by KRS 163.020.

Employes of Department of Education, KRS 156.140.

163.060 [4526-6] **Residence Requirement for Eligibility for Rehabilitation.**—To be eligible to receive vocational rehabilitation from the State Board of Education, disabled persons must have been domiciled within the state for one year or more, or reside in the state at the time of sustaining disability.

163.070 [4526-7] **State Treasurer Custodian of Funds.**—The State Treasurer is custodian of all money received by the state from the Federal Government under the Federal Acts accepted by KRS 163.020, and he shall collect the money and pay it out upon the order of the State Board of Education.

Revolving fund accounts for Federal appropriations, KRS 45.140.

163.080 [4526-8] **Donations May be Received.**—The State Board of Education may receive such gifts and donations, from public or private sources, as may be authorized unconditionally or under such conditions related to vocational rehabilitation of persons disabled in industry or otherwise as in the proper judgment of the State Board of Education are proper and consistent with the provisions of KRS 163.010 to 163.080.

Special accounts for private funds and contributions, KRS 41.290.

163.090 [4526-10; 4526-11] **Mayo State Vocational School.**—The Mayo State Vocational School, established and maintained at Paintsville, Kentucky, is authorized to conduct and maintain, under the control and supervision of the State Board of Education, a state vocational school. The purpose of the school shall be to make available facilities for vocational training for white persons, to be carried on in accordance with state plans for vocational education. The curriculum shall be established and approved by the State Board of Education. The management and control of the school, including all duties, powers, rights, purposes, responsibilities, funds and properties, are vested in the State Board of Education.

Staff of Mayo State Vocational School subject to Teachers' Retirement Law, KRS 161.220.

163.100 Northern Kentucky State Vocational School.—(1) The State Board of Education is hereby authorized and empowered to purchase, lease, rent or erect one or more buildings from funds available to it for that purpose, to be located in Kenton County, Kentucky, and to be known as "Northern Kentucky State Vocational School."

(2) The said "Northern Kentucky State Vocational School" is hereby authorized to be established, conducted, maintained and operated by the State Board of Education, in accordance with Kentucky State Plans for Vocational Education to make available vocational training and education. (1944, c. 75)

CHAPTER XI

STATE UNIVERSITIES AND COLLEGES

164.010 Council on Public Higher Education; membership
164.020 Powers and duties of council
164.030 Regulations of council to be followed by state educational institutions
164.040 Expenses of council
164.050 Expenses of members
164.060 Meetings, number of; special meetings
164.070 Place of meeting
164.080 Notice of meeting
164.090 Quorum; what constitutes
164.100 University of Kentucky recognized
164.110 Acts assenting to Acts of Congress for agricultural experiment work continue in force and apply to University of Kentucky
164.120 Colleges maintained; what constitutes University of Kentucky
164.130 Members of board of trustees of university; how appointed; vacancies
164.140 Selection of alumni trustees
164.150 Trustees not public officers
164.160 Trustees constitute body corporate; power to receive and administer revenue and property
164.170 Meetings of board; quorum; expenses
164.180 Officers of board; bylaws
164.190 Executive committee
164.200 Regulations for university; physical training and discipline of student
164.210 Colleges, departments and bureaus determined by trustees
164.220 Appointment of professors, officers and employes
164.230 Removal of professors, officers and employes
164.240 Degrees granted by trustees
164.250 Report to legislature
164.260 Purchase or condemnation of property
164.270 Sale of realty; when authorized
164.280 Treasurer of university
164.290 State teachers colleges recognized
164.300 Purpose of teachers colleges
164.310 Boards of regents created
164.320 Members of board of regents; appointment; term; vacancies; oath
164.330 Organization and officers of boards of regents; expenses
164.340 Meetings of boards; quorum
164.350 General powers of boards of regents
164.360 Appointment and removal of president, faculty and employes
164.370 Suspension or expulsion of students
164.380 Practice schools
164.390 Interest in contracts prohibited
164.400 Incidental expenses; fees
164.410 Acquisition and sale of property
164.420 Treasurer; duties of
164.440 Depository; bond and duties of
164.450 Secretary; duties and compensation
164.460 Report of president
164.470 Funds to be used as specified
164.480 War veterans' scholarships granted

164.490 Scholastic requirements for scholarship
164.500 Application for scholarship
164.520 Irredeemable bond for benefit of University of Kentucky and Kentucky State College for Negroes

CROSS REFERENCES

Books furnished and aid given to university and teachers colleges by State Librarian, KRS 171.140
Financial condition of educational institutions to be reported annually to State Board of Education, KRS 157.060

164.010 [4527-1; 4527-2; 4527-3] **Council on Public Higher Education; Membership.**—There shall be a Council on Public Higher Education in Kentucky, to be composed of the president or chief executive officer of the University of Kentucky, Eastern Kentucky State Teachers College, Western Kentucky State Teachers College, Murray State Teachers College and Morehead State Teachers College; a member, other than the Superintendent of Public Instruction, of the board of regents of each of the state teachers colleges to be selected by the board of regents of each teachers college; three appointive members of the board of trustees of the University of Kentucky to be selected by the board of trustees of the university; two lay members of the State Board of Education to be selected by the State Board of Education; the dean of the College of Education of the University of Kentucky; and the Superintendent of Public Instruction, who shall be chairman of the council. When the council meets to consider curricula for teacher training, three persons who are from accredited institutions of higher learning, who are not members of the council, and who have been appointed by the Executive Committee of the Association of Kentucky Colleges and Universities, shall be invited to meet with the council in an advisory capacity.

164.020 [4527-1; 4527-3] **Powers and Duties of Council.**—The Council on Public Higher Education in Kentucky shall:

(1) Coordinate the work and determine the curricular offerings of the state institutions of higher learning for white persons in Kentucky, on the basis of efficiency and economy.

(2) Determine the amount of entrance fees and the qualifications for admission to each of such institutions.

(3) Consider the budgetary requirements of each of such institutions and, on the basis of the needs of the various institutions as indicated by the individual budgets submitted, recommend to the Department of Finance a budget covering the needs of the institutions.

(4) Require such reports from the executive officers of each of such institutions as it deems necessary for the effectual performance of its duties.

(5) Publish at least biennially a report of the educational and financial affairs of such institutions.

(6) Elect, if it deems necessary, a secretary.

164.030 [4527-4] **Regulations of Council to be Followed by State Educational Institutions.**—The governing board of each of the state institutions of higher learning for white persons shall make such changes or adjustments in the curricula and such rules and regulations affecting their schools as are necessary to carry out and put into effect the rulings of the Council on Public Higher Education in regard to curricula offerings, entrance fees, and qualifications for admission to and reports from their respective institutions.

164.040 [4527-5] **Expenses of Council.**—All expenses, other than the expenses of the individual members, incurred by the Council on Public Higher Education in the performance of its duties, in the employment of a secretary, or in the publishing of reports, shall be borne by each of the institutions represented on the council in proportion to its number of representatives on the council. The governing board of each institution shall pay such expenses out of the funds of the institution.

164.050 [4527-6] **Expenses of Members.**—The members of the council shall serve without pay, but shall be reimbursed for their necessary traveling and other expenses while attending the meetings of the council. Each institution shall pay the expenses of its own representatives. The expenses of the members of the State Board of Education and of the Superintendent of Public Instruction shall be paid by the state in the same manner as their other traveling expenses are paid.

164.060 [4527-7] **Meetings, Number of; Special Meetings.**—The council shall meet at least twice each year at such times as it determines by resolution. Special meetings may be called by the chairman. Upon request of three institutions represented on the council, the chairman shall call a special meeting.

164.070 [4527-8] **Place of Meeting.**—The council shall meet in the office of the Superintendent of Public Instruction or such other place as it designates.

164.080 [4527-9] **Notice of Meeting.**—Notice of each meeting shall be given by the chairman at least ten days prior to the time of the meeting, unless all members of the council waive notice.

164.090 [4527-10] **Quorum; What Constitutes.**—A majority of the entire council constitutes a quorum for the transaction of business, but no business shall be transacted and no proposition carried unless a majority of the entire council votes for it.

UNIVERSITY OF KENTUCKY

164.100 [4527-11] **University of Kentucky Recognized.**—The University of Kentucky, located at Lexington, is recognized as established and maintained. It is the institution that was founded under the land grant of 1862 by the Congress of the United States under the corporate designation and title of "Agricultural and Mechanical College of Kentucky." The university shall be maintained by the state with such endowments, incomes, buildings and equipment as will enable it to do work such as is done in other institutions of corresponding rank, both undergraduate and postgraduate, and embracing the work of instruction as well as research.

164.110 [4527-29; 4527-30; 4636b-7; 4636f-8; 4636f-9; 4636h-1; 4636h-2] **Acts Assenting to Acts of Congress for Agricultural Experiment Work Continue in Force and Apply to University of Kentucky.**—All Acts of the General Assembly giving assent to Acts of Congress providing aid for agricultural and mechanical colleges and for agricultural extension and experiment work, shall, unless heretofore repealed, remain in force and apply to the University of Kentucky. The revenue arising from such Acts of Congress shall continue to be made available to the University of Kentucky for its use in accordance with the provisions of such Acts. All regulations made by the board of trustees of the Agricultural and Mechanical College for its government, in accordance with Acts of the General Assembly, shall continue in force and apply to the government of the University of Kentucky, except to the extent set out in this chapter or specifically repealed.

Tax for benefit of A. and M. College to continue in force until changed by law, Const. 184.

164.120 [4527-12; 4527-30] **Colleges Maintained; What Constitutes University of Kentucky.**—The University of Kentucky includes the following colleges and schools: The College of Arts

and Science, The College of Agriculture, The College of Engineering, The College of Law, The College of Education, The College of Commerce, and The Graduate School. The colleges, schools, divisions, departments, bureaus and offices now established and maintained or which in the future may be established by the board of trustees of the university shall constitute the University of Kentucky. The branches of learning required by the Act of Congress approved July 2, 1862, shall continue to be integral and indispensable courses of instruction at the university.

164.130 [4527-13] **Members of Board of Trustees of University; How Appointed; Vacancies.**—The government of the University of Kentucky is vested in a board of trustees, consisting of the Governor, who shall be chairman of the board, the Superintendent of Public Instruction, the Commissioner of Agriculture, Labor and Statistics, and twelve competent citizens of Kentucky appointed by the Governor. Four members shall be appointed in January each even year for a term of six years, and until their successors are appointed and qualified. One of the four shall be a member of the State Board of Agriculture, one shall be from the alumni of the university and two shall be distinguished citizens of the state. The Governor shall so make the appointments as to divide the representation upon the board, including the ex officio members, equally between the two leading political parties of this state. With the exception of the members of the board of trustees appointed from the alumni of the university, no two appointed members of the board shall be residents of any one county in Kentucky. Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for original appointments.

164.140 [4527-13] **Selection of Alumni Trustees.**—The board of trustees of the university shall prescribe the method by which the alumni may, at their annual meeting or at a special meeting called for that purpose, nominate to the Governor three persons from whom the alumni members shall be appointed. No alumnus shall be permitted to vote for the nomination of alumni trustees in the year in which he secures his degree. If the alumni fail to make nominations to the Governor for any year in which nominations are to be made, the Governor shall for that year appoint the alumni trustees from the entire alumni, a list of which shall be provided by the secretary of the alumni association.

164.150 [4527-13] **Trustees Not Public Officers.**—No member of the board of trustees shall be held to be a public officer by reason of his membership on the board.

164.160 [4527-18] **Trustees Constitute Body Corporate; Power to Receive and Administer Revenue and Property.**—The board of trustees shall be a body corporate, under the name of Board of Trustees of the University of Kentucky, with the usual corporate powers, and shall possess all the immunities, rights, privileges and franchises usually attaching to the governing bodies of educational institutions. It may receive, hold and administer, on behalf of the university, subject to the conditions attached, all revenues accruing from endowments, appropriations, allotments, grants or bequests, and all types of property.

164.170 [4527-14; 4527-15; 4527-16] **Meetings of Board; Quorum; Expenses.**—The board of trustees of the university shall meet on Tuesday preceding the regular annual commencement of the university, on the third Tuesday in September, on the second Tuesday in December, and on the first Tuesday in April of each year. Special meetings may be called by the chairman or by any three members upon giving ten days' written notice to each member of the board. The business to be transacted at special meetings shall be specified in the notice of the meeting. All meetings shall be held on the campus of the university unless otherwise specified by a majority vote of the board. A majority of the board shall constitute a quorum. All necessary expenses incurred by the trustees in going to, returning from and while attending meetings of the board shall be paid out of the funds of the university.

164.180 [4527-17] **Officers of Board; By-Laws.**—The board of trustees may elect a vice-chairman and such other officers as it deems wise, and may make such bylaws, rules and regulations consistent with this chapter as it deems proper.

164.190 [4527-27] **Executive Committee.**—The board of trustees shall annually elect an executive committee of five members, which shall have the powers that the board delegates to it. The executive committee shall submit to the board of trustees at each meeting, for its consideration and approval, a complete record of the proceedings of the executive committee. The authority of the board to revise the acts of the executive committee does not extend to the rejection of any valid or any authenticated expenditure of money by the executive committee.

164.200 [4527-20] **Regulations for University; Physical Training and Discipline of Students.**—The board of trustees may establish proper regulations for the government of the university and the physical training, military or otherwise, of the students. It may authorize the suspension and dismissal of students for neglect or violation of the regulations, or for other conduct prejudicial to the character and welfare of the university.

164.210 [4527-21] **Colleges, Departments and Bureaus Determined by Trustees.**—The trustees may determine from time to time the colleges, schools, divisions, departments, bureaus and offices which the university shall comprise within the scope of the Acts of Congress approved July 2, 1862, and Acts supplementary thereto, and the relation which each division shall sustain to each other division and to the whole. They may devise, allot and arrange the distribution of divisions with the designation appropriate for each, and devise the means required for their effective instruction, administration and government. They may do all other acts that are needful for the welfare of the university.

164.220 [4527-21; 4527-24] **Appointment of Professors, Officers and Employes.**—The board of trustees may appoint a president, professors, assistants, tutors, and other officers, and determine the salaries, duties and official relations of each. In the appointment of presidents, professors or instructors no preference shall be shown to any religious denomination. The board of trustees shall provide a definite salary for all positions created and filled by the board, and there shall be no additions thereto in the form of fees, prerequisites or emoluments of any kind.

164.230 [4527-21; 4527-22] **Removal of Professors, Officers and Employes.**—The board of trustees has full power to suspend or remove any of the officers, teachers, professors or agents that it is authorized to appoint, but no president, professor or teacher shall be removed except for incompetency, neglect of or refusal to perform his duty, or for immoral conduct. A president, professor or teacher shall not be removed until after ten days' notice in writing, stating the nature of the charges preferred, and after an opportunity has been given him to make defense before the board by counsel or otherwise and to introduce testimony which shall be heard and determined by the board.

164.240 [4527-25] **Degrees Granted by Trustees.**—The board of trustees may grant degrees to graduates of the university, prescribe

conditions upon which postgraduate honors may be obtained, and confer such honorary degrees, upon the recommendation of the faculty of the university, as it thinks proper.

164.250 [4527-26] **Report to Legislature.**—The board of trustees shall make a full report to the General Assembly, within the first month of each regular session, of the condition and operation of the university since the date of the previous report, with such recommendations concerning the university as are deemed necessary.

Reports to be made to State Board of Education, KRS 157.060.

164.260 [4527-19] **Purchase or Condemnation of Property.**—The board of trustees may acquire additional lands or other property or material for the purpose of expanding its plant and extending its usefulness. When unable to contract with the owner of land or other property or material necessary for the purposes of the university, it may acquire the same by condemnation proceedings in the manner provided in KRS 416.010 to 416.080.

Commonwealth to be named as grantee of property, KRS 56.030.

164.270 [4636L-1] **Sale of Realty; When Authorized.**—Whenever any real estate held by the Commonwealth for the use or benefit of the university or the Kentucky Agricultural Experiment Station is, in the opinion of the board of trustees of the university, no longer necessary for the purpose of the university or the Kentucky Agricultural Experiment Station, the board of trustees may, with the approval of the Governor, sell and convey such real estate. The proceeds of the sale shall become a part of the fund out of which the real estate so sold was purchased. This section does not authorize the sale of any real estate situated in the city of Lexington within the area bounded by Winslow Street or Euclid Avenue on the north, Rose Street on the east, Graham Avenue, Graham Avenue extended, and Washington Avenue on the south, and Limestone Street on the west.

164.280 [4527-28] **Treasurer of University.**—The treasurer of the university shall keep an itemized account of receipts and expenditures, and shall pay out no money except on authorization of the board of trustees, given directly or through its executive committee. He shall render to the executive committee monthly statements of receipts and expenditures, and amount on hand, and a full detailed statement, with vouchers, for the information and action

of the board of trustees at its regular annual meeting, and at other periods when required. (1946, c. 27, § 42)

Budget and Financial Administration, Ch. 45 KRS.
Conditions of bonds required for performance of public or fiducial office, trust or employment, recovery on, KRS 62.060, 62.080.
Reports of financial condition to be made to State Board of Education, KRS 157.060.

STATE TEACHERS COLLEGES

164.290 [4527-37] **State Teachers Colleges Recognized.**—The state teachers colleges known as the Eastern Kentucky State Teachers College, located at Richmond, Kentucky, Western Kentucky State Teachers College, located at Bowling Green, Kentucky, Murray State Teachers College, located at Murray, Kentucky, and Morehead State Teachers College, located at Morehead, Kentucky, are recognized as established and maintained.

164.300 [4527-38] **Purpose of Teachers Colleges.**—The purpose of the teachers colleges is to give instruction at the college level, in residence and through extension study, in academic, vocational and professional subjects and in the science and art of teaching, including professional ethics, to conduct training schools, field service and research, and to render such supplemental services as conducting libraries and museums, dormitories, farms, recreational facilities and offering instruction in such general and cultural subjects as constitute a part of their curricula.

164.310 [4527-39] **Boards of Regents Created.**—There shall be a board of regents for each of the teachers colleges, to be known as the Board of Regents of the ..... State Teachers College.

164.320 [4527-40; 4527-41; 4527-42] **Members of Board of Regents; Appointment; Term; Vacancies; Oath.**—The board of regents for each of the teachers colleges shall consist of the Superintendent of Public Instruction, who shall be chairman of each board, and four members appointed by the Governor. The appointive members shall hold office for a term of four years from April 1 succeeding their appointment and until their successors are duly appointed and qualified. The appointments shall be made at the expiration of the terms of the members appointed pursuant to Chapter 65 of the Acts of 1934, and thereafter as the terms expire. Not more than two appointive members of any board shall be residents of one county, and not more than three members of any board, including the Superintendent of Public Instruction, shall

belong to the same political party. No member of any board shall be held to be a public officer by reason of his membership on the board, nor shall membership on the board be incompatible with any public office. Appointments to fill vacancies shall be made in the same manner as regular appointments. The person appointed shall hold the position for the unexpired term. Each appointed member of each board shall, at the first meeting following his appointment, take an oath to faithfully discharge his duties.

164.330 [4527-42] **Organization and Officers of Boards of Regents; Expenses.**—Each board of regents shall hold its first meeting within thirty days after each appointment of new members. The place of meeting shall be designated by the Superintendent of Public Instruction. At this meeting there shall be elected a vice-chairman and a secretary for the board. Each board shall appoint a treasurer, and such officers as it deems necessary but no member of any of the boards shall be appointed treasurer. No member of any board shall draw any salary for his services, but shall be reimbursed for necessary expenditures made in going to and from each meeting of the board and for other legitimate expenses. The expenses shall be paid out of the funds of the college.

164.340 [4527-43] **Meetings of Boards; Quorum.**—Each board of regents shall meet quarterly at the college or at such other place as is agreed upon. Upon written request of the president of the college or of two members of the board, the chairman of the board shall call a special meeting at a place designated by him, and the board may at such special meeting transact any or all business that it may transact at a regular meeting. A majority of the members of the board shall constitute a quorum for the transaction of business, but no appropriation of money nor any contract that requires an appropriation or disbursement of money shall be made, and no teacher employed or dismissed, unless a majority of all the members of the board vote for it.

164.350 [4527-44] **General Powers of Boards of Regents.**—The government of each of the teachers colleges is vested in its respective board of regents. Each board of regents, when its members have been appointed and qualified, shall constitute a body corporate, with the usual corporate powers, and with all immunities, rights, privileges and franchises usually attaching to the governing bodies of educational institutions. Each board may:

(1) Receive grants of money and expend the same for the use and benefit of the college;

(2) Adopt bylaws, rules and regulations for the government of its members, officers, agents and employes, and enforce obedience to such rules;

(3) Require such reports from the president, officers, faculty and employes as it deems necessary and proper from time to time;

(4) Determine the number of divisions, departments, bureaus, offices and agencies needed for the successful conduct of the affairs of the college; and

(5) Grant diplomas and confer degrees upon the recommendation of the president and faculty.

164.360 [4527-44; 4527-46] **Appointment and Removal of President, Faculty and Employes.**—(1) Each board of regents may appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employes and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.

(2) No person shall be employed for a longer period than four years. No person shall be employed who is related to any member of the board of regents as father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, sister-in-law or daughter-in-law, except that upon written recommendation of the president of the college, one such relative of each member of the board of regents may be appointed upon confirmation by the other three appointed members.

(3) Each board may remove the president of the college, and upon the recommendation of the president may remove any faculty member or employe, but no president or faculty member shall be removed except for incompetency, neglect of or refusal to perform his duty, or for immoral conduct. A president or faculty member shall not be removed until after ten days' notice in writing, stating the nature of the charges preferred, and after an opportunity has been given him to make defense before the board by counsel or otherwise and to introduce testimony which shall be heard and determined by the board. Charges against a president shall be preferred by the chairman of the board upon written information furnished to him, and charges against a faculty member shall be preferred in writing by the president unless the offense is committed in his presence.

Talbott, Commissioner of Finance v. Public Service Commission, et al., 291 Ky. 109. Five thousand dollar salary limit applies to public offices except Governor, president and professors of University of Kentucky and teachers colleges, etc. It does not apply to persons rendering services under contract for Commonwealth of irregular or temporary nature, etc. (Feb. 24, 1942.)

164.370 [4527-44; 4527-47] **Suspension or Expulsion of Students.**—Each board of regents may invest the faculty or a committee of the faculty with the power to suspend or expel any student for disobedience to its rules, or for any other contumacy, insubordination or immoral conduct. In every case of suspension or expulsion of a student the person suspended or expelled may appeal to the board of regents. The board of regents shall prescribe the manner and the mode of procedure on appeal. The decision of the board of regents shall be final.

164.380 [4527-50] **Practice Schools.**—The board of regents of each of the state teachers colleges may maintain, in connection with the college, a model and practice school under the supervision of thoroughly trained teachers for the purpose of giving observation and practice work to the student teachers.

164.390 [4527-48] **Interest in Contracts Prohibited.**—No president, professor, teacher, regent, member of the executive council or other officer or employe shall be interested in any contract or purchase for the building or repairing of any structure or furnishing any supplies for the use of a teachers college.

164.400 [4527-49] **Incidental Expenses; Fees.**—The respective boards of regents of the state teachers colleges shall establish such incidental fees and nonresident tuition fees as will be sufficient for the purpose of paying the incidental expenses of the college and as are consistent with the recommendations of the Council on Public Higher Education. No money derived from nonresident tuition or other fees paid by students shall be used for any other purpose, except such amount as is over and above that needed to defray the incidental expenses.

Revolving fund may be created for fees, KRS 45.140.

164.410 [4527-44; 4527-51] **Acquisition and Sale of Property.**—Each board of regents may, on such terms as it regards best for the college, purchase or lease land for the purpose of securing the erection of buildings, and may receive by any legal mode of conveyance, purchase and hold property of any description that the board deems necessary for the purposes of the school, and may build and construct improvements for such purposes and hold or

sell the same. If a board of regents is unable to agree with the owner of such real estate as to its value, or to its purchase, it may proceed in its own name to condemn such real estate in the manner provided in KRS 416.010 to 416.080. Real estate acquired by purchase or condemnation shall be paid for out of money appropriated to the college. Each board of regents may, when it regards it best for the school, sell and convey any real estate, buildings or equipment owned by it, but the proceeds arising from the sale must be reinvested in other real estate, buildings and equipment for the use of the college.

For erection of buildings on holding-company plan see Ch. 162 KRS.
Title to property to be taken in name of Commonwealth, KRS 56.030.

164.420 [4527-56] **Treasurer; Duties of.**—The treasurer of each board of regents shall receive and disburse all money under the control of the board, perform all acts that pertain to his office under the direction of the board, and make a report of the same to the board at its quarterly meeting. In August each year the treasurer shall make and furnish to the board of regents, to be by it transmitted to the Superintendent of Public Instruction, an abstract containing full accounts of all money received and disbursed by the school during the preceding year, stating from what source received and on what account paid out, and the amount paid to each professor, teacher or official of the school.

Reports of financial condition to be made to State Board of Education, KRS 157.060.

164.440 [4527-55] **Depository; Bond and Duties of.**—Each board of regents shall appoint a bank or trust company to serve as its depository. The depository shall, before entering upon its duties, execute a bond for the faithful performance of the duties of the office, to be approved by the board. The bond shall be guaranteed by at least five solvent personal sureties whose solvency exceeds the amount of the bond, or by a surety company authorized to do business in this state, or through the execution of a collateral bond consistent with the general banking laws of this state and the bonding laws applying to the safeguarding of state funds. The depository shall be designated for a period of one year or a part thereof, and before entering upon its duties shall agree with the board of regents as to the amount of interest to be paid on average daily or average monthly balances. The interest shall not be less than two percent if the board pays the premium on the depository bond.

The penal sum of the depository bond shall be determined by the board of regents and shall as nearly as possible cover the maximum amount of money that the board might have on hand in the depository at any one time. The depository shall hold for the board, subject to its withdrawal at any time, all funds deposited by the treasurer or any agent of the board, and shall pay over to such person and in such manner as the board directs all funds so deposited. The depository shall keep full and complete accounts of all the board's funds, make such reports to the board or its authorized agents as the board directs, and keep and turn over to the successor of its office all records relating to its transactions and duties together with all public funds on hand.

Conditions of bonds of depositories of public funds, KRS 62.060, 62.080.

164.450 [4527-52] **Secretary; Duties and Compensation.**—The secretary of each board of regents shall keep and prepare all records, books and papers belonging to the board. He shall keep a journal of the proceedings of the board in which, if requested by any member of the board, the "yeas" and "nays" on all questions shall be entered. He shall prepare, under the direction of the board, all reports and estimates, and shall execute all matters belonging to his office. His compensation shall be fixed by the board.

164.460 [4527-53] **Report of President.**—The president of each teachers college shall make to his board of regents written reports in duplicate during August each year. The reports shall contain a full account of receipts of money from all sources, amount and purpose of disbursements thereof, and the condition of the college.

Reports to State Board of Education, KRS 157.060.

164.470 [4527-57] **Funds to be Used as Specified.**—All appropriations, grants, gifts, bequests and donations to a teachers college for a specified use shall be applied to such use and no other.

164.480 [4527-31; 4527-32] **War Veteran's Scholarships Granted.**—Every person who was engaged in any branch of the military or naval service of the United States, prescribed and classified by the United States War Department as a part of such service, during the wars that were declared on April 6, 1917, and any wars declared thereafter, respectively, and who at the time of his enlistment was a resident of Kentucky, is entitled to a free scholarship in any State higher educational institution for white

or colored persons that he chooses for a period required for the completion of the course of study selected by him. The scholarship includes free tuition, matriculation and other fees, room rent, fuel and lights, and the advantages and privileges of the institution, but does not include free board.

Provided, however, that if the Federal Government provides for the education of veterans of any of the wars herein referred to, then this Section shall not apply to such veterans. (1944, c. 38)

164.490 [4527-33] **Scholastic Requirements for Scholarship.**—All persons eligible to the scholarship provided by KRS 164.480 shall meet the scholastic entrance requirements prescribed by the university or college for the course of study chosen by the applicant.

164.500 [4527-34] **Application for Scholarship.**—Each applicant for the scholarship provided by KRS 164.480 shall file his application for admission at least thirty days prior to the beginning of the semester of the school year at which he desires to enter. The application shall be accompanied by his certificate of honorable discharge from the service, which shall be returned to him upon admittance.

164.520 [4591a] **Irredeemable Bond for Benefit of University of Kentucky and Kentucky State College for Negroes.**—The bond issued by the Commissioners of the Sinking Fund to themselves as trustees for the Agricultural and Mechanical College of Kentucky and the State Normal School for Colored Persons of Kentucky, bearing date July 1, 1897, for the sum of $165,000 and bearing interest at the rate of six percent, payable semiannually, remains in force and constitutes a perpetual obligation of the Commonwealth, and the interest thereon is a perpetual charge upon the treasury. The Department of Finance shall, on the first day of January and on the first day of July of each year, draw its warrant on the State Treasurer for the sum of $627.75 in favor of the treasurer of the Kentucky State College for Negroes, and its warrant on the State Treasurer for the sum of $4,322.25 in favor of the treasurer of the University of Kentucky.

CHAPTER XII

CITY UNIVERSITIES AND COLLEGES

165.010 Definition of municipal university, college and junior college
165.020 Municipal university in city of first class; control and organization of
165.030 Tax levy for university; amount of
165.040 Manner of levy, collection and payment of tax to university
165.050 Appropriation of funds other than taxes
165.060 Appropriation of land for university
165.070 Condemnation, purchase or gift of land
165.080 Bond issue question may be submitted to voters
165.090 Sale of bonds; disposition of proceeds
165.100 Purposes for which proceeds may be used
165.110 Bonds of officers to cover duties under bond issue
165.120 Employment of technical advisers and others for construction work
165.130 Contracts; bids for
165.140 Financial and other reports concerning university
165.150 Law school buildings for municipal university; erection of
165.160 Municipal colleges in cities of second class; establishment and control of
165.170 Tax levy for municipal college; amount; disposition of
165.180 Appropriation of funds other than taxes
165.190 Appropriation of land for college
165.200 Financial and other reports concerning college
165.210 Municipal junior colleges in cities of second class; establishment and control of
165.220 Tax levy for junior college
165.230 Tuition charged by junior college
165.240 Appropriation of land for junior college
165.250 Financial report of junior college
165.260 Existing junior colleges not affected
165.270 City of first class may provide for training teachers
165.280 Board of education in county containing city of fourth class may establish junior college; tax for support; election on question of establishment
165.290 What constitutes junior college; course of instruction
165.300 Tuition and fees; college fund
165.310 Site and buildings; issuance of bonds

165.010 [2948a-2; 3219-2; 3219-9] **Definition of Municipal University, College and Junior College.**—A municipal university, college or junior college as used in this chapter means any university, college or junior college established or supported in whole or in part by funds raised by municipal taxation.

165.020 [2948a-2; 2948a-5] **Municipal University in City of First Class; Control and Organization of.**—A university in a city of the first class shall not constitute a municipal university or reecive support as provided in KRS 165.030 to 165.140 unless it is controlled by a board of trustees appointed by the mayor and board of aldermen and consists of departments united under one organization or

management, and unless its chief work is maintaining courses for affording instruction and conferring degrees in the arts, sciences and professions above the high school grade.

165.030 [2948a-1] **Tax Levy for University; Amount of.**—The board of aldermen of a city of the first class that has a municipal university may, after an election as required by § 184 of the Constitution, annually levy and collect for the support of the university a tax of not less than five cents nor more than seven cents on each one hundred dollars' worth of property subject to taxation for city purposes.

165.040 [2948a-3] **Manner of Levy, Collection and Payment of Tax to University.**—The tax levy authorized by KRS 165.030 shall be made by the board of aldermen at the same time and in the same manner as other levies for city purposes. The amount levied shall be placed to the credit of the university fund upon the completion of the assessment of property for taxation, and paid into the fund as collected, subject to the discount allowed on other city taxes. The director of finance of the city shall pay the fund to the treasurer of the university in regular weekly installments.

165.050 [2948a-4] **Appropriation of Funds Other Than Taxes.**—The board of aldermen of a city of the first class having a municipal university may devote to university purposes funds derived from sources other than taxes levied for a special purpose.

165.060 [2948a-6] **Appropriation of Land for University.**—The board of aldermen of a city of the first class may set apart or appropriate as a site for the buildings and grounds of its municipal university any public grounds of the city not specially appropriated or dedicated by ordinance to another use.

165.070 [2948a-6a] **Condemnation, Purchase or Gift of Land.**—The board of trustees of a municipal university in a city of the first class may acquire, by purchase or gift, lands and improvements for the purpose of expanding the plant and extending the usefulness of the university, and when unable to agree with the owner of land and improvements necessary for the purposes of the university may proceed to condemn the land and improvements. The condemnation proceedings shall be conducted in the manner provided in KRS 416.120.

165.080 [2948b-2; 2948b-3] **Bond Issue Question May be Submitted to Voters.**—The board of aldermen of any city of the first

class may adopt an ordinance submitting to the voters of the city at any regular election held in the city the question of whether or not bonds of the city shall be issued for the benefit of the municipal university. Authorization of the bond issue and submission of the question to the voters may be by one ordinance and at one election covering the entire amount of the bonds or it may be by different ordinances authorizing different elections at different times for parts of the total amount. The ordinance shall provide the date and maturity of the bonds, the rate of interest they shall bear and the total amount to be then issued, and shall contain the necessary details with reference to the execution and delivery of the bonds, their denominations, coupons to be attached, and taxes to be levied to pay interest and to create a sinking fund to retire the bonds at maturity, provided that the total amount of bonds that may be authorized or issued under this section shall not exceed one million dollars. A failure of the voters at one election to authorize a bond issue shall not prevent submission of the question of issuing bonds at subsequent elections.

165.090 [2948b-5] **Sale of Bonds; Disposition of Proceeds.**—Bonds issued under authority of KRS 165.080 shall be placed under the control of the president and trustees of the university, who shall determine when and at what price they shall be sold, but no bonds shall be sold for less than par. Any premium obtained from the bonds shall constitute a part of the sinking fund for their ultimate redemption. The proceeds of the bonds shall be deposited to the credit of the university in the depositories that are selected for the deposit of the funds of the sinking fund commissioners of the city, upon the same agreement as to interest, and shall be withdrawn upon the checks of the treasurer of the university, countersigned by the president thereof.

165.100 [2948b-4] **Purposes for Which Proceeds May be Used.**—The money derived from the bonds issued under authority of KRS 165.080 shall be used to meet the needs of the university, other than for its departments of law, medicine and dentistry. The authorized use includes the payment for real estate and buildings purchased or to be purchased, the erection and alteration of improvements, and the securing of proper equipment, but does not include the payment of salaries or operating expenses or the payment of any existing indebtedness incurred as an operating expense.

165.110 [2948b-6] **Bonds of Officers to Cover Duties Under Bond Issue.**—The president and treasurer of the university shall each give bond with approved surety in a sum fixed by the board of aldermen of the city. The bond shall be payable to the university and obligate the makers to perform faithfully the duties of their offices and faithfully account for and pay over all money or other thing of value that may come into their hands. The bonds shall be kept in force during the time any money received from the bond issue provided for by KRS 165.080 is being handled or administered by the university or its officers.

165.120 [2948b-7] **Employment of Technical Advisers and Others for Construction Work.**—The president and trustees of the university may employ such persons as they deem necessary, including architects and other technical advisers, to perform any work for which a bond issue has been provided.

Public works involving two thousaid dollars or more to be under supervision of registered professional engineer or architect, KRS 322.360.

165.130 [2948b-8] **Contracts; Bids for.**—Any work for which a bond issue has been provided may be done by contract or otherwise, in the discretion of the president and trustees of the university. When any contract involves the expenditure of two thousand dollars or more it shall be awarded to the lowest and best bidder. All bids or parts of bids for any such work, or for any supplies, may be rejected by the president and trustees. The president and trustees may do any part of the work by day labor when deemed advisable.

165.140 [2948a-7; 2948b-9] **Financial and Other Reports Concerning University.**—The president and trustees of a municipal university in a city of the first class shall annually report to the mayor and the board of aldermen of the city what they do under the provisions of KRS 165.080 to 165.130, and account for all funds received by them. An annual report and audit of receipts and disbursements of funds received by the university under KRS 165.030 to 165.050 shall be made in addition to other reports required by its charter.

Educational institutions supported by taxation to report to State Board of Education, KRS 157.060.

165.150 [2948c-1 to 2948c-16] **Law School Buildings for Municipal University; Erection of.**—(1) Any city of the first class may, if the necessary ground is conveyed to the city without cost and free

of all liens and encumbrances, erect law school buildings, with necessary appurtenances, for the purpose of supplying the municipal university of the city with adequate buildings necessary to carry out its powers and duties. The city shall proceed under the provisions of KRS 162.160 to 162.280. When so applied, KRS 162.160 to 162.280 shall be so read that:

(a) "School building" means "law school building."

(b) "Board of education of the school district" means "board of trustees of the municipal university."

(c) "KRS 162.150 to 162.280" means "KRS 165.150."

(d) "from the Public Works Administration or other agency of the Federal Government," in KRS 162.170, is replaced by "secured by a lien on the revenues derived from the building."

(e) "thirty years" in KRS 162.180, means "fifty years."

(f) "KRS 162.150," in KRS 162.160 and 162.170, means "KRS 165.150."

(g) "and to the Superintendent of Public Instruction," in KRS 162.160, is omitted.

(h) The period of the lease contemplated by KRS 162.160 shall not exceed a maximum of fifty years, and the insurance required in the lease shall at least equal the value of the improvements.

(2) This section creates an additional and alternate method for the erecting of law school buildings for municipal universities in cities of the first class, and does not affect any other statute. No proceedings shall be required for the erection of any law school building under this section or the issuance of bonds therefor except those prescribed by this section.

165.160 [3219-1; 3219-2; 3219-5] **Municipal colleges in Cities of Second Class; Establishment and Control of.**—Cities of the second class may establish or acquire by lawful conveyance municipal colleges for the purpose of promoting public education. A college in a city of the second class shall not constitute a municipal college or receive support as provided in KRS 165.170 to 165.190 unless it is controlled by a board of trustees appointed by the mayor and legislative body of the city, and unless its principal work is the maintenance of courses affording instruction in such arts, sciences and professions and conferring such certificates of attainment as

are authorized by other similar institutions of learning above the high school grade.

165.170 [3219-1; 3219-3] **Tax Levy for Municipal College; Amount; Disposition of.**—The legislative body of any city of the second class that has a municipal college may, after an election as required by § 184 of the Constitution, annually levy and collect, for the support of the municipal college, a tax of not less than five nor more than seven cents on each one hundred dollars' worth of property subject to taxation for city purposes. The levy of such taxes shall be made at the same time and in the same manner as other levies for city purposes. The amount levied shall be placed to the credit of the municipal college fund upon the completion of the assessment of property for taxation, and paid as collected, subject to the discount allowed on other city taxes, by the treasurer of the city to the treasurer or other financial officer of the college, for the purpose of establishing, acquiring and operating the college. The taxes authorized by this section shall be construed to be school taxes and shall be in addition to all other taxes authorized by law to be used for municipal or school purposes.

165.180 [3219-4] **Appropriation of Funds Other Than Taxes.**—Any city of the second class having a municipal college may devote to college purposes any funds or properties derived from sources other than taxes levied for special purposes.

165.190 [3219-6] **Appropriation of Land for College.**—The legislative body of any city of the second class may appropriate as a site for the buildings and grounds for a municipal college any public grounds of the city not especially appropriated or dedicated to any other use.

165.200 [3219-7] **Financial and Other Reports Concerning College.**—An annual report and audit of receipts and disbursements of funds received by a municipal college under KRS 165.160 to 165.190 shall be made in addition to such other reports on the condition of the college as are required by its charter or by the governing body of the city.

Educational institutions supported by taxation to report to State Board of Education, KRS 157.060.

165.210 [3219-8; 3219-9; 3219-12] **Municipal Junior Colleges in Cities of Second Class; Establishment and Control of.**—Boards of education of cities of the second class may establish or acquire by

lawful conveyance municipal junior colleges for the purpose of promoting public education. A college in a city of the second class shall not constitute a municipal junior college or receive support as provided in KRS 165.220 to 165.240 unless it is controlled by the board of education of the city as a part of the public school system, and unless its principal work is the maintenance of courses affording instruction in such arts, sciences and professions and conferring such certificates of attainment as are authorized by other similar institutions of learning above high school grade.

165.220 [3219-8; 3219-10] **Tax Levy for Junior College.**—The board of education of any city of the second class may request and the legislative body of the city shall then, after an election as required by § 184 of the Constitution, annually cause to be levied and collected, for the support of a municipal junior college, a tax of not less than five nor more than seven cents on each one hundred dollars' worth of property subject to taxation for city purposes. The levy of such taxes shall be made at the same time and in the same manner as other levies for public school purposes. The amount levied shall be placed to the credit of the board of education fund upon completion of the assessment of property for taxation, and paid as collected, subject to the discounts or penalties allowed on other city taxes, by the treasurer of the city to the treasurer of the board of education for the purpose of establishing, acquiring and operating the college. The taxes authorized by this section shall be construed to be school taxes and shall be in addition to all other taxes authorized by law to be used for municipal or school purposes.

165.230 [3219-11] **Tuition Charged by Junior College.**—The board of education of any city of the second class that establishes or acquires a municipal junior college pursuant to KRS 165.210 may, for the purpose of supplementing the tax provided in KRS 165.220, charge each pupil attending the college an annual tuition fee of not more than one hundred dollars. The tuition fee shall be collected by the treasurer of the board of education and placed to the credit of the board of education college fund, and shall be used for maintaining and operating the college.

165.240 [3219-13] **Appropriation of Land for Junior College.**—The board of education of any city of the second class may set apart or appropriate any site or school building, or part of a school

building and grounds, not needed for general school purposes, for the use of a municipal junior college.

165.250 [3219-14] **Financial Report of Junior College.**—An annual report and an audit of receipts and disbursements of the junior college fund shall be made by the board of education of the city.

Educational institutions supported by taxation to report to State Board of Education, KRS 157.060.

165.260 [3219-15] **Existing Junior Colleges Not Affected.**—KRS 165.210 to 165.250 do not affect cities that had established and were operating, on January 27, 1937, municipal junior colleges other than by boards of education.

165.270 [4399-20] **City of First Class May Provide for Training Teachers.**—In an independent school district embracing a city of the first class the board of education may make provision for the training of teachers in the district.

165.280 Board of Education in County Containing City of Fourth Class May Establish Junior College; Tax for Support; Election on Question of Establishment.—Boards of education of school districts in counties containing a city of the fourth class, whether the boundary lines of the district are contiguous with that of the city or not, are hereby authorized to establish or to acquire by purchase, gift or lease, or by lawful conveyance, junior colleges for the purpose of promoting public education as defined in KRS 165.280 to 165.310. For the support and maintenance thereof the board of education of such district may levy an ad valorem tax not to exceed fifty cents on each one hundred dollars worth of taxable property within the said district, such levy to be made at the same time that the levy is made for general school purposes. This tax shall be levied annually and collected by the regular tax collector for said district as other school moneys and turned over to the treasurer of said district. Before such a junior college shall be established, the question shall be submitted to the qualified voters of the district at any general election and shall be deemed authorized when a majority of the voters in said election voting upon said proposition are in favor thereof. (1946, c. 164, § 1)

165.290 What Constitutes Junior College; Course of Instruction.—(1) A junior college within the meaning of KRS 165.280 to 165.310 is a college established or supported in whole or in part

by funds raised by taxation and controlled and administered by the board of education of such district as a part of the public schools, and affording instruction in arts, and sciences, preprofessional and vocations, and conferring such certificates of attainment as may be authorized by other like or similar institutions of learning above high school grade or standing.

(2) A junior college shall be entitled to support under KRS 165.280 to 165.310 only when its principal work is the maintenance of courses of instruction in advance of the instruction maintained in high schools under the control of the board of education. (1946, c. 164, §§ 2, 4)

165.300 Tuition and Fees; College Fund.—(1) The board of education of any school district in a county containing a city of the fourth class that may establish or acquire a junior college under the terms of KRS 165.280 to 165.310 may, for the purpose of supplementing the tax provided in KRS 165.280, charge each pupil attending the junior college a tuition fee not to exceed one hundred dollars per annum, and such other matriculation and incidental fees as may be authorized by the board of education. The tuition fee and other fees shall be collected by the treasurer of the board of education and shall be placed to the credit of the board of education "College Fund" and shall be used for maintaining and operating a junior college.

(2) An annual report and audit of receipts and disbursements of the junior college fund shall be made by the board of education of the school district annually as of July 1. (1946, c. 164, §§ 3, 6)

165.310 Site and Buildings; Issuance of Bonds.—The board of education in any school district in a county containing a city of the fourth class may set apart or appropriate any site or school building or part of the school building and grounds not especially needed for general school purposes for the use of the junior college or they may acquire such property by the use of the funds accruing to the board of education through the tax levy for the college fund or from the sale of bonds authorized by a majority vote of the qualified voters voting on the proposition when submitted in approved form at any general election, but such sum may not exceed one percent of the taxable valuation of the property of the district of the last preceding tax year or the total sum available from the sale of holding company bonds by a holding com-

pany duly organized for that purpose; and sufficient money shall be set aside from the taxes collected for the junior college fund each year to pay interest and bonds coming due or to create a sinking fund to amortize such bonds. (1946, c. 164, § 5)

CHAPTER XIII
HIGHER EDUCATION FOR NEGROES

166.010 Negro institutions recognized
166.020 Functions of Kentucky State College for Negroes
166.030 Agriculture and mechanic arts departments at Kentucky State College; federal fund
166.040 Functions of West Kentucky Vocational Training School
166.050 Appointment and salary of school officials and employes
166.060 Removal of school officials and employes
166.070 Powers and duties of presidents of schools
166.080 Secretary and treasurer
166.090 Meetings of State Board of Education at schools
166.100 Acquisition and sale of property
166.110 Rules, regulations and reports
166.120 Departments and curricula
166.130 Practice school
166.140 Suspension or expulsion of students
166.150 Tuition; fees
166.160 Tuition paid in schools outside Kentucky
166.170 Rules concerning tuition; amount allowed
166.180 Lincoln Institute; conveyance to Commonwealth; operation as state school

166.010 [4527-59; 4527-62; 4527-62a; 4527-62c; 4527-80] **Negro Institutions Recognized.**—The Kentucky State College for Negroes, located at Frankfort, and the West Kentucky Vocational Training School for Negroes, located at Paducah, are recognized as established and maintained. They shall be maintained by the state with such endowments, incomes, buildings and equipment as will enable them to do such work as is done in other institutions of corresponding rank and kind. The State Board of Education is vested with all powers and duties, not inconsistent with this Chapter, held by the former boards of trustees of the Kentucky State Industrial College and the Western Kentucky Industrial College, and with all records and property held by such boards or acquired by the State Board of Education for the benefit of the institutions recognized by this section.

Control of institutions vested in Department of Education, KRS 156.010.

166.020 [4527-60] **Functions of Kentucky State College for Negroes.**—The purpose of the Kentucky State College for Negroes is to train teachers for schools for colored children, and to give such industrial and general college training to young colored men and women as the State Board of Education deems advisable.

166.030 [4527-61] **Agriculture and Mechanic Arts Departments at Kentucky State College; Federal Fund.**—The Kentucky State College for Negroes shall maintain a department of agriculture and

the mechanic arts, and for that purpose the State Board of Education is entitled to receive an equitable portion of the money appropriated to the state by an Act of Congress approved August 30, 1890 (24 Stat. 417).

Irredeemable bond for benefit of Kentucky State College for Negroes, KRS 164.520.

166.040 [4527-62c] **Functions of West Kentucky Vocational Training School.**—The purpose of the West Kentucky Vocational Training School for Negroes is to make available facilities for vocational training for colored children to be carried on in accordance with the state plans for vocational education.

Vocational Education and Rehabilitation, Ch. 163 KRS.

166.050 [4527-66; 4527-68] **Appointment and Salary of School Officials and Employes.**—The State Board of Education shall appoint a president for the Kentucky State College for Negroes and a president for the West Kentucky Vocational Training School for Negroes, and determine the salary and tenure of office of each. The terms shall not exceed four years. Upon recommendation of the respective presidents, the State Board of Education shall appoint and determine the salaries, duties and official relations of all officers, teachers and other employes necessary for the successful operation of the schools.

166.060 [4527-66; 4527-68; 4527-69] **Removal of School Officials and Employes.**—The State Board of Education may remove a president, and upon recommendation of a president shall remove any officer, teacher or other employe, but no president, officer or teacher shall be removed except for incompetency, neglect of or refusal to perform his duty, or for immoral conduct. A president, officer or teacher shall not be removed until after ten days' notice in writing stating the nature of the charges preferred, and after an opportunity has been given him to make defense before the board by counsel or otherwise, and to introduce testimony which shall be heard and determined by the board.

166.070 [4527-67] **Powers and Duties of Presidents of Schools.**—In the administration of the affairs of the Kentucky State College for Negroes and the West Kentucky Vocational Training School for Negroes the president of each institution is the executive agent of the State Board of Education, and has general supervision, subject to the control of the board, of all educational and business affairs and disciplinary problems of the institution of which he is president.

166.080 [4527-75; 4527-77] **Secretary and Treasurer.**—The secretary of the State Board of Education shall serve as secretary of the board and the State Treasurer shall serve as treasurer of the board in its administration of the Kentucky State College for Negroes and the West Kentucky Vocational Training School for Negroes. The secretary shall prepare and keep all records, books and papers belonging to the board in its administration of said schools. He shall keep a journal of the proceedings of the board in which, if requested by any member of the board, the "yeas" and the "nays" on all questions shall be entered. He shall prepare, under the direction of the board, all reports and estimates.

166.090 [4527-78] **Meetings of State Board of Education at Schools.**—The State Board of Education shall meet at least once each year at the Kentucky State College for Negroes and the West Kentucky Vocational Training School for Negroes for the purpose of inspecting the plants and observing the work and the needs of the schools.

166.100 [4527-64; 4527-79] **Acquisition and Sale of Property.**—The State Board of Education may purchase, hold and sell real and personal property in the name of the Commonwealth for the use and benefit of the Kentucky State College for Negroes and the West Kentucky Vocational Training School for Negroes, and may condemn real estate in the manner provided by KRS 416.010 to 416.080. The board may construct improvements and do all things it deems necessary in carrying out the purposes for which the schools are maintained. Revenue accruing by reason of the sale or conveyance of any real estate or building owned by it shall be reinvested in other real estate and buildings for use of the schools. All appropriations, grants, bequests or donations for a specified use shall be applied to that use and no other.

Title to property vested in Commonwealth, KRS 56.030.

166.110 [4527-70] **Rules, Regulations and Reports.**—The State Board of Education shall adopt such rules and regulations as it deems proper for the government of the Kentucky State College for Negroes and the West Kentucky Vocational Training School for Negroes and for the guidance of their employes and students. It may require of the president, teachers or other officers such reports as it deems necessary. All existing rules and regulations made by the preceding boards of trustees shall remain in force until repealed by order of the State Board of Education.

Reports as to financial matters, KRS 157.060.

166.120 [4527-62c; 4527-72] **Departments and Curricula.**—The State Board of Education may determine the number of departments of study, and shall prescribe the curricula for the Kentucky State College for Negroes and the West Kentucky Vocational Training School for Negroes. The board may issue certificates or diplomas of graduation to students completing the prescribed curricula.

166.130 [4527-73] **Practice School.**—The State Board of Education may maintain, in connection with the Kentucky State College for Negroes, a model and practice school under the supervision of trained teachers for the purpose of giving observation and practice work to the student teachers.

166.140 [4527-71] **Suspension or Expulsion of Students.**—The State Board of Education may invest the faculty or a committee of the faculty with power to suspend or expel any pupil for insubordination, immoral conduct, or disobedience of the rules and regulations of the schools. The student suspended or expelled may appeal from the decision of the faculty to the State Board of Education. The decision of the State Board of Education shall be final.

166.150 [4527-74] **Tuition; Fees.**—Tuition in the Kentucky State College for Negroes and the West Kentucky Vocational Training School for Negroes shall be free to all colored residents of Kentucky. The State Board of Education shall fix the rate of tuition and the conditions on which pupils who are not residents of Kentucky may be admitted. The board shall fix such incidental fees as it deems necessary to meet such incidental expenses as may be incurred.

166.160 [4527-81] **Tuition Paid in Schools Outside Kentucky.**—All bona fide residents of this state who have been such residents continuously for five years next preceding application for aid pursuant to this section, and who are duly qualified to pursue courses of study offered at state institutions that they cannot attend because of § 187 of the Constitution and not offered at other state institutions, shall have their tuition and fees paid by the Commonwealth of Kentucky at educational institutions outside of Kentucky which they attend for the purpose of pursuing such courses.

166.170 [4527-82; 4527-83] **Rules Concerning Tuition; Amount Allowed.**—The State Board of Education shall prescribe rules and regulations governing the granting of aid under KRS 166.160. The tuition and fees shall be ascertained by the Superintendent of

Public Instruction and paid upon his requisition out of funds appropriated for that purpose. If the funds appropriated for the purpose in any year are insufficient, the State Board of Education may prorate the funds among the persons whose applications are approved. Not more than $350 shall be allowed to any person under the provisions of this section and KRS 166.160 during any one school year of nine months. (1946, c. 67)

166.180 Lincoln Institute; Conveyance to Commonwealth; Operation as State School.—In the event the Board of Trustees of the Lincoln Institute in Shelby County, Kentucky, shall tender to the Commonwealth a deed of conveyance conveying the properties of said institute, the State Board of Education is hereby authorized to accept said conveyance on behalf of the Commonwealth and to thereafter operate the institute as a state institution of learning in accordance with the terms and conditions of the instruments pursuant to which the institute was originally established. (1946, c. 135, § 1)

Note: 1946, c. 135, § 2, made an appropriation of $100,000 for capital outlay at Lincoln Institute, the appropriation to become available only in the event the properties of the institute are conveyed to the Commonwealth during the fiscal years 1946-1947 or 1947-1948.

CHAPTER XIV
EDUCATION OF THE DEAF, DUMB AND BLIND

167.010 School for deaf; name, nature and location of
167.020 Board of commissioners of school for deaf; organization and powers; quorum
167.030 Records and reports of board
167.040 Purchase and sale of property
167.050 Donations
167.060 Control of property
167.070 Superintendent, teachers and officers; appointment and removal of
167.080 Colored deaf; provisions concerning school for
167.090 Attendance of deaf children at school compulsory
167.100 Children exempt from compulsory attendance
167.110 False statement as to child's age prohibited
167.120 Failure to send child excused when schools are full
167.130 Public schools for deaf to receive children; exceptions; care; return transportation
167.140 School for blind; management; property
167.150 Personnel of school for blind; admission and instruction of pupils
167.160 Advisory committee for school for blind
167.170 Expulsion of students; corporal punishment prohibited
167.180 Colored blind
167.190 Adult blind
167.990 Penalties

CROSS REFERENCES

Boards of education may provide special instruction for children partially deaf or blind, KRS 159.060
Machinery used in schools to comply with safety regulations, KRS 339.130

167.010 [273a-1; 297; 298f-1] **School for Deaf; Name, Nature and Location of.**—The corporate name of the state school located at Danville, Kentucky, for the education of deaf children residing within the state, is "The Kentucky School for the Deaf." The school shall be regarded, classed and conducted wholly as an educational institution of the state, separate and distinct from the state charitable and correctional institutions. It shall receive and teach all deaf children of school age residing in this state free of tuition, board, and use of books and instruments used in teaching.

167.020 [273; 274; 280; 281] **Board of Commissioners of School for Deaf; Organization and Powers; Quorum.**—The Kentucky School for the Deaf shall be governed by a board of commissioners consisting of nine members appointed by the Governor with the advice and consent of the Senate. Three members shall be appointed every even year for terms of six years. The board shall

be a continuation of the board appointed under the provisions of Chapter 13 of the Acts of 1870, and the appointments shall be made as the respective terms of the members of that board expire. Two of the members appointed every even year shall be residents of Boyle County, Kentucky. Vacancies shall be filled by the Governor. The board shall be a corporate body for the benefit of the state by the name of Board of Commissioners of The Kentucky School for the Deaf. The board may make contracts, sue and be sued, have a common seal, and exercise all other rights and privileges incident to corporations that are necessary to carry out the purposes for which it is created. It may make such lawful bylaws as it deems proper. All action of the board shall be subject to the control of the General Assembly. A majority of the board shall constitute a quorum for the transaction of business.

Board of commissioners constitutes division of Department of Education, KRS 156.010.

167.030 [278] **Records and Reports of Board.**—The Board of Commissioners of The Kentucky School for the Deaf shall keep a true and complete record of all its proceedings and acts, and shall cause its secretary and treasurer to keep a true and complete record of all money received, showing the source and for what it was expended, of bonds receivable and payable, and of all other accounts and proceedings incident to the management of the institution. The records shall be open, and subject to the inspection of any committee appointed for that purpose by the Governor or the General Assembly. The board shall furnish the Governor an annual statement of the funds, receipts, expenses and condition of the institution, and of the number of persons received and educated therein during the year immediately preceding, specifying the parts of the state from which they came. The Governor shall lay the report before the General Assembly within the first week of every regular session.

Financial records required of agencies receiving state funds, Ch. 45 KRS. Reports to Department of Education, KRS 157.060.

167.040 [277a-1] **Purchase and Sale of Property.**—The Board of Commissioners of The Kentucky School for the Deaf may, except as provided in KRS 42.060, buy, sell, convey and transfer any property, for and on behalf of the school.

Title to property acquired by state agencies to be taken in name of state, KRS 56.030.

167.050 [276; 277] **Donations.**—The board of commissioners may receive property by legacy, conveyance or otherwise, for the

benefit of the Commonwealth, in aid and furtherance of the objects of The Kentucky School for the Deaf. Any donation to the school for a specified use shall be applied to such use and no other, subject to the control of the state over the school.

Private funds to be deposited with State Treasurer, KRS 41.290.

167.060 [277] **Control of Property.**—All funds and property of The Kentucky School for the Deaf shall be under the management and control of the board of commissioners as trustees for the Commonwealth, in aid and furtherance of the objects of the school. The board may take and retain possession of all books, papers and property belonging to the school, and hold, manage, use and apply the same as it deems best to build up and sustain the school and secure the objects for which it was established.

167.070 [280] **Superintendent, Teachers and Officers; Appointment and Removal of.**—The Board of Commissioners of The Kentucky School for the Deaf may appoint a superintendent and teachers for the school, regulate their term of service, define their duties, and fix their salaries. The board may appoint a president, secretary and treasurer, and such other officers as it deems necessary. The board may remove any of its employes or officers at pleasure, and fill their places with others.

167.080 [282; 283; 283a] **Colored Deaf; Provisions Concerning School For.**—(1) An institution for the education of the colored deaf is recognized as established and maintained at Danville, Kentucky. The school for the colored deaf shall be under the control of the same board of commissioners and superintendent as the school for the white deaf but the two schools shall be maintained and operated as separate and distinct institutions. The colored deaf shall be admitted on the same terms as the white deaf, and the colored deaf shall receive the same per capita for support as the white deaf receive.

(2) The school for the white deaf is entitled to all appropriations made for the benefit of The Kentucky School for the Deaf unless the appropriation is designated as being for the benefit of the school for the colored deaf. The school for the colored deaf is entitled only to appropriations made under Acts in which the word "colored" is used to distinguish the school from that of the white deaf. The funds of the two schools shall be kept and spent separately.

Races to be educated separately, Const. 187.

167.090 [298f-1; 298f-2] **Attendance of Deaf Children at School Compulsory.**—Except as provided in KRS 167.100 and 167.120, every person residing in this state who has custody, control, care or supervision of any deaf child between the ages of seven and sixteen years shall cause the child to attend some public, private or parochial school for the hearing or in which deaf children are taught, for the full term each year.

Compulsory Attendance, Ch. 159 KRS.

167.100 [298f-2] **Children Exempt from Compulsory Attendance.**—KRS 167.090 does not apply to a child who is being taught in its home by an instructor qualified to give instruction to the deaf; nor to a child certified by the county board of health of the residence of the person having control of the child to be not in proper mental or physical condition to be sent to a school of the type contemplated by KRS 167.090.

167.110 [298f-4] **False Statement as to Child's Age Prohibited.**—No person shall, with the intent to evade the provisions of KRS 167.090, make a false statement concerning the age of a child, or the length of time the child has attended a school for the deaf.

167.120 [298f-5] **Failure to Send Child Excused When Schools Are Full.**—If it is satisfactorily shown to the court at the time of a prosecution for a violation of KRS 167.090 the schools in this state that provide instruction and education for the deaf are then taxed to capacity, and that there is no room or means of taking care of or instructing the child, the person accused of the violation shall be discharged from liability.

167.130 [298f-8] **Public Schools for Deaf to Receive Children; Exceptions; Care; Return Transportation.**—The persons in charge of any public institution in this state at which the deaf are received for instruction shall, while in session, receive any deaf child sent to the institution, unless it can be shown at the time that the institution is taxed to its capacity and there is no room or means of taking care of the child, or that the physical condition of the child is such as to prevent study or to constitute a menace to the health of the other pupils of the institution, or that the child is mentally deficient and incapable of successfully pursuing the prescribed course of study of the institution, or that the habits and practices of the child are such as to constitute a detriment to the welfare of the other pupils of the institution. When a child is received he shall be cared for under the provisions of the statutes regulating the institution,

and the bylaws prescribed by the trustees or managers for the government of the institution. When a child is brought to a public institution to be entered as a pupil, the price of return transportation to the home of the child must be deposited with the executive officer of the institution or guaranteed to him by some responsible party before the institution is obligated to receive the child.

167.140 [301; 301b; 4618-80] **School for Blind; Management; Property.**—The Kentucky School for the Blind, at Louisville, Kentucky, shall be managed and controlled by the State Board of Education. The board shall have the possession, preservation, repair and control of the buildings and grounds belonging to the state and dedicated to the school. The board may, except as provided in KRS 42.060, sell any property held for the use and benefit of the school, and purchase other property deemed by the board to be suitably and conveniently located, and erect buildings necessary for carrying out the purposes of the school. The board may adopt rules and regulations to carry into effect its powers with respect to the school, and may require from the superintendent of the school any reports and information it desires as to the condition of the school.

Title to property acquired by state agencies to be taken in name of state, KRS 56.030.

167.150 [300; 301a; 4618-80] **Personnel of School for Blind; Admission and Instruction of Pupils.**—(1) The State Board of Education may employ, fix the compensation, and prescribe and direct the duties and conduct of a superintendent, physician, matron, professors, teachers, and all other necessary agents and employes for the Kentucky School for the Blind. The board may remove at pleasure any person so employed by it. The superintendent shall be a person with at least five years' experience in the education and training of the blind.

(2) The board may prescribe the course of education and rules for the government and discipline of pupils in the school, and fix and regulate tuition fees and terms of admission of pupils into the institution from other states, but no charge shall be made for the admission of pupils from this state.

Personnel of Department of Education, how employed, KRS 156.140.

167.160 [4618-80] **Advisory Committee for School for Blind.**—The superintendent of the Kentucky School for the Blind may, with the approval of the State Board of Education, appoint an advisory

committee which shall assist him in conducting the activities of the school. The advisory committee shall serve without compensation.

167.170 [305; 4618-80] **Expulsion of Students; Corporal Punishment Prohibited.**—The State Board of Education shall alone have the power to expel a pupil from the Kentucky School for the Blind. No officer or employe of the school shall be permitted to inflict corporal punishment upon any of the pupils.

167.180 [311] **Colored Blind.**—Colored blind children are entitled to receive on equal terms per capita all rights, benefits and privileges secured to the white blind children of the state. The blind children of both races shall be under the same general management and the same superintendent.

White and colored persons not to be taught in same school, Const. 187.

167.190 [312] **Adult Blind.**—The training and employment of adult blind persons shall be under the direction and control of the Kentucky School for the Blind, but separate and apart from any school or training for the blind children.

167.990 [298f-3; 298f-4; 298f-6] **Penalties.**—(1) Any person who violates KRS 167.090 shall be fined not less than ten nor more than twenty-five dollars for the first offense and not less than twenty-five nor more than fifty dollars for a subsequent offense.

(2) Any person who violates KRS 167.110 shall be fined not more than fifty dollars or imprisoned in the county jail not more than thirty days, or both.

(3) The county courts shall have exclusive jurisdiction of prosecutions for violating KRS 167.090 and 167.110.

INDEX

	Section
Absence, Leaves of	
Teacher or Superintendent	161.770
Civil Service Employee	161.833
Abuse of Teacher Prohibited	161.190
Acceptance of Deaf Pupils, Return Transportation	167.130
Accounts, Revolving Funds	45.140
Accounts, School District, Examination and Supervision	156.200
Acquisition, School Property, Alternate Methods	162.290–300
Acquisition, School Property, by Municipal University	165.060–070
Actuary, Selection, Duties, under Teachers' Retirement	161.400
Adult Blind	167.190
Ad Valorem Tax	160.475
Advisory Commission for Coordination Services for the Blind	207.120
Age Limit, School Bus Drivers	186.600
Age Limits, Compulsory Attendance	159.010
Agent, Retail of Textbooks, School Official or Employe May Not Be	156.360
Age of Entering School	158.030
Agricultural and Home Economics Extensions, Donations for	247.080
Alcoholic Liquor and Narcotics	158.270
Annexation, in School District, Effect on Teacher's Contract	161.810
Annual Statement of Collections and Disbursements Published	61.290, 424.010
Appointment, Teachers and Employes, Promotion, Transfer, How Made	160.380
Appropriations for Vocational Education, How Paid	163.040
Architect, Employ for Plans of Public Work	322.360
Attendance Districts	159.070
Attendance Officers:	
Appointment, Term, Oath, Removal, Vacancies	159.080
Assistants:	
appointment	159.080
expenses, payment of	159.110
powers	159.130
qualifications	159.100
Boundary Records, Access to	160.070
Census, Duty to Take and Maintain	159.250
Census, False Report Prohibited	159.270
Census Report	159.260
Certification	161.020, 161.080–090
Duties	159.140
Expenses of Travel, When Paid	156.190
Expenses, Payment of	159.110
Inspection of Private Schools	159.040

In United Attendance Districts 159.090
Notice of Violations, Service 159.180
Office, Location of 159.120
Powers 159.130
Qualifications 159.100

Attendance Reports, Inspection, Private Schools 159.040
Attendance, School for White and Colored Prohibited 158.020
Attendance, Special Schools, Blind and Deaf Children 159.050
Attendance, When Prohibited, Diseases 158.160
Authorized Investments, Disbursements, Teachers' Retirement 161.430
Banks and Trust Companies, Maximum Debt, Exceptions 287.280–290
Bank Share Tax 136.270–80

Basal Texts:
Adoption Periods 156.310–320
Change, When Allowed 156.330
Selection, Adoption, How Effected; Frequency 156.310–320
Unapproved Books 156.330

Bible, Daily Reading of 158.170
Blind and Deaf Children 159.050

Blind, Education of:
Advisory Commission for Coordination 207.120
Attendance, Special Schools 159.050
Colored Blind 167.180
Compulsory Attendance, Exemption 159.030
Department of Education Controls 156.010
Kentucky School for the Blind:
adult blind, control 167.190
advisory committee, how appointed 167.160
conduct of school, tuition, admission 167.150
control 167.140
expulsion, punishment 167.170
officers and teachers, appointment, etc. 167.150
superintendent, control of colored blind 167.180
superintendent, duty to report 167.140
superintendent, qualification 167.150
State Board of Education, Control Vested in 156.070

Board of Regents, Rules and Regulations 164.350

Boards of Education:
Absence from Meetings, Board Members 160.270
Acquisition of Buildings, Alternative Methods 162.290–300
Age Limit, School Bus Driver 186.600
Agricultural and Home Economics Extension, Donations for 247.080
Allowed Accounts, Certified to Treasurer and Depository .. 160.560

Annual Statement, Receipts and Expenditures to be Published 61.290, 424.010
Appointment, Promotion and Transfer of School Employes 160.380
Appointment of Depository, Bond, Term 160.570
Assistant Superintendents, Appointment, Compensation 160.360
Attendance Officers:
appointment, removal 159.080
assistants may be provided 159.080
assistants, payment of expenses 159.110
records, reports, other assigned duties 159.140
supervision 159.130
united attendance districts, appointment, compensation, number 159.090
Blind and Deaf Children, Special Schools 159.050
Board and Room of Pupils 158.100
Bond Issues, Duties 162.080-090
Borrowing Power 160.540, 287.290
Boundaries, Maintenance of Record of 160.070
Bribes, Board Members May Not Accept 432.350
Budget Not to be Exceeded, Exception 160.550
Building Plans, Duties 162.060, 162.130, 162.160
Bylaws, Rules and Regulations 160.290
Census, Permanent and Continuing 159.240
Census Report Copy Filed With 159.260
Census, Nature of 159.250
Chairman and Secretary to Sign Bonds 162.090
Chairman to Sign Certification of Allowed Accounts 160.560
Collector of Taxes, Final Settlement 160.510
Commission Form of Government Does Not Affect 89.280
Compensation, Expenses, When Allowed 160.280
Composition, Title, Powers 160.160
Compulsory Attendance, Exemptions 159.030
Condemnation of Property, Authority 162.030
Contracts, How Let, Duties 162.070
Contract, Two or More County Subdistricts 160.080
Conveyance of School by City 162.280
Conveyance to City, Authority 162.120
County Divisions, Board Members Elected From 160.210, 160.260
County Livestock Fund for Schools 258.340
District Superintendent, Duties as Executive Agent of the Board 160.370
Drivers, School Bus, Age Limit 186.600
Duties of Employes, How Prescribed 161.140
Elections:
ballots 160.220-230
divisions, county board members elected from 160.210, 160.260
expenses, how paid 160.240
nominating petitions 160.220

Eligible for Reelection 160.180
Epidemics, Closing of School 158.160

Equalization Fund:
- administration of 157.055
- application for aid, and filing 157.053
- definition for 157.051
- distribution of 157.052-3
- eligibility for aid 157.053

Escheated Property, Authority 162.040
Exemptions, School Buses, from Motor Laws 281.020
Expenses of Superintendent and Employes 160.410
Expenses of Travel, Officers and Employes 156.190
Expulsion of Pupils, Authority for 158.150
Free Textbooks and Supplies, May Furnish 160.330
Distribution, etc. 157.100-190
Funds, Withdrawal from Depository 160.560
Gifts, Use Restricted 160.580
Handicapped Children, Special Provision 159.060
Home Economics and Agricultural Extension, Donations for 247.080
Instruction on Alcoholic Liquor and Narcotics, Duties 158.270
Insurance, Transportation of Pupils 160.310
Jury Service, Exempt from 29.030
Kindergartens, May Establish 158.090
Lease of School Property 162.140, 162.160
Leaves of Absence for Teachers, Authority 161.770
May Not Vote, When, Effect on Board 160.180
Meetings, Duties of Secretary 160.270
Merger, How Made, Effect 160.040

Moral Instruction:
- attendance credit for 158.240
- cost of instruction 158.260
- failure of pupils to take, effect 158.250
- provision for 158.200-158.260
- survey of religious preference of pupils desiring, may authorize 158.210
- time and place, to fix 158.220

Negotiable Notes, May Issue 160.540
Night and Industrial Schools, May Establish 158.090
Nonresident Tuition 158.120
Number and Salaries of Clerks 160.390
Oath 160.170
Orders of Board, How Signed 160.440
Parental or Truant Schools, Religious Instruction 159.210
Power to Summon Witnesses 160.300
Powers and Duties 160.290
Private School, Contracts With 158.100
Property Outside District, Ownership Sale 162.020

Property Titles, Estate, Improvements 162.010
Publish Annual Statement of Receipts and Expenditures 61.290, 424.010
Qualifications, Disqualifications, Board Members 160.180
Receipt of Taxes, Reverted Independent District 160.080
Removal From Office 156.110
Removal From Office, Effect on Eligibility 160.180
Removal of Teachers, Authority 161.170
Report and Audit of Depository 160.570
Reports of Funds Received and Spent 157.060
Retirement Systems, Duties on Discontinuance 161.710
Revenue and Taxation:
- budget not to be exceeded, exception 160.550
- borrowing in anticipation of revenues 160.540
- rate of levy, how determined 160.460
- school budget, preparation and filing 160.470, 160.530
- use of school money 160.530

Roads and Passways to School, How Secured 160.320
Salaries of Teachers, Minimum, Schedules 161.150
Salaries, Teachers and Public Officials Subject to Attachment 427.130
School Buses, Board-owned, License Free 186.060
School Fund Apportionment, Notice of 157.040
School Service, Provision for 158.100
School Term, May Extend 158.070
Secretary, Appointment, Etc., Duties 160.440
Secretary to Sign Certification of Allowed Accounts 160.560
Separate Schools for White and Colored to Maintain 158.020
Special Funds, Conversion of Principal to General Fund 160.590
Subdistricts:
- creation, change, discontinuance, transfer of children 160.070
- emergency, application for approval 160.070
- in two or more counties 160.080

Subdistrict Bond Issues, Duties 162.110
Subdistrict Trustees, Election of, Duties of Boards 160.100–110
Superintendent is Responsible to 160.390
Superintendents:
- appointment, term, salary, vacancies, qualifications, removal 160.350

Superintendent to Prepare Budget, Salary Schedule, Reports 160.390
Suspension of Teacher's Contract, Authority 161.790–800
Teachers' Contracts, Authority and Duties 161.740–750
Teachers' Contracts, Types Required 161.730
Teachers' Salaries and Demotions, Duties 161.760
Termination of Teacher's Contract, Procedure 161.780–790
Textbooks:
- basal texts, selection and adoption 156.310–320
- distribution 156.340

repurchase of 156.350
reward for securing adoption, prohibited 156.370
Time of Election and Term 160.200
Transportation of Pupils, Insurance 160.310
Transportation of Pupils, When Provided 158.100–110
Treasurer, Appointment, Removal, Bond 160.560
Treasurer, Duties Concerning College Fund 165.230
Tuition Contracts, When Authorized 158.130
Tuition May Be Required, When 158.030
Use of School for Public Purposes, Authority 160.050
Use of School Money 160.530
Vacancies in Office, How Filled 160.190
Vacancies in Office of Subdistrict Trustee 160.140

Board and Room of Pupils 158.100

Board of Trustees of Teachers Retirement System:

Actuarial Data Required of 161.390
Actuary, Selection of 161.400
Chairman, Appointment of 161.340
Changes in System, Authority to Make 161.400
Employing Authority 161.340, 161.370
Errors in Payment, Duty to Correct 161.680
Expenses, Officers 161.290
Funds, Duties Relating to 161.420–450
Individual Accounts and Data, Maintenance 161.580
Interest in Board's Investments, When Prohibited 161.460
Medical Director, Selection, Reports 161.410
Medical Examinations and Disability Retirements, Authority 161.670
Membership Certificates, Secretary to Issue 161.490
Moneys, How Handled 161.380, 161.420–430
Name, Duties, Members, Selection 161.250
Nomination, Election, Term 161.260
Oath 161.280
Payment to Estate, Approval of Method 161.650
Prior-service Certificates, Issuance, and Regulation 161.500
Reports and Records of Teacher Employing Agency 161.570
Retirement Allowances, Approval of Payment Options 161.630
Secretary, Duties Relating to Contributions 161.560
Teachers' Statements, Authority 161.480–490
Termination of Teacher Membership, Duties 161.520
Quorum, Voting 161.300
Records and Financial Reports 161.320
Rules and Regulations, Authority to Prescribe 161.310
Secretary, Appointment and Qualifications 161.340
Secretary, Signing of Vouchers 161.380
Treasurer, Auditor, Legal Adviser 161.370
Treasurer, Duties 161.380
Vacancies in Office 161.270
Workmen's and Unemployment Compensation, Authority 161.360

156.350 **Bond, Blanket for State Departments** 62.190
156.370 **Bonds, Construction** 162.170–270
160.200 **Bond for Filing, Conditions, Textbooks** 156.280
160.310 **Bond for Filing, Form, Term, Amendment, Removal, Textbooks** 156.290
100–110 **Bond for Filing, Violations, Prosecutions for, Textbooks** 156.300
160.560 **Bond Issues, Election, Tax** 162.080–100
165.230 **Bond Retirement in Merged Districts** 160.040
158.130 **Bonds, Corporate Surety on Bonds of**
158.030 **State Employes and Officers** 62.200
160.050 **Bonds, Officers; Depositories, Fiduciaries** 62.060
160.530 **Bonds, of State Employes** 62.170–180
160.190 **Bonds, of State Officers** 62.160
160.140 **Bonds of Taxing District, Proof Required** 66.210–220
158.100 **Books and Doctrines Prohibited** 158.190
Books Criticizing System of Healing Prohibited 158.180
161.390 **Boundary Records of Districts, Access To** 160.070
161.400 **Bribery in Employment of School Employes, Penalties** 160.600
161.340 **Bribes, Giving and Taking, Board Members, Subdistrict Trustees** 432.350
161.400 **Budget** 160.470
161.370 Use of School Money 160.530
161.680
161.290 **Building:**
420–450 Approval Plans 162.060, 162.130, 162.160
161.580 Competitive bidding unnecessary on purchase from
161.460 Federal Government 162.075
161.410 Tax for Building Fund 160.476
Business Director Appointees, Appointment, Salaries, Qualifica-
161.670 **tions, Duties** 160.430
161.490 **Business Director, Report of Property Loss** 162.480
420–430 **Business Schools, Scholarships for War Orphans** 157.090
161.250 **Cash on Deposit, Maximum, Teachers' Retirement** 161.450
161.260
161.280 **Census:**
161.650 False Report Prohibited 159.270
161.500 Forms for, How Provided 156.080
161.570 In Two or More County Subdistricts 160.080
161.630 Permanent and Continuing 159.240–250
161.560 Regulations of 156.080
480–490 Report of School Census 159.260
161.520 Rules and Regulations, Authority of State Board 156.160
161.300 School Fund Apportionment, Basis 157.040
161.320 Special, State Superintendents May Take 156.170
161.310 **Certificate of Completion, Elementary School** 158.140
161.340
161.380 **Certification:**
161.370 Administration and Supervision Certificates, Issue,
161.380 Duration, Renewal 161.080
161.270 Attendance Officers and Assistants 159.100
161.360 Certificates, Types of 161.050

Certification:
definitions 161.010
elementary certificates, issue, duration, renewal 161.060
emergency certificates, issue, duration 161.100
fee for issue and renewal 161.130
high school certificates, issue, duration, renewal 161.070
information to be published 156.090
issue of certificates 161.030
of district superintendents, statement of, filed 160.350
qualifications 161.030–040
renewal of certificates 161.110
revocation, causes 158.170, 159.010–270, 160.330, 160.350–400, 161.210
revocation of certificates 161.120
school employes 161.020
state board, authority and duties 161.030, 161.090–120
suspension, cause for 161.780

Charitable Societies 273.010–080
Children, Employment Limitations (See Employment of Children)
Cigarettes, Smoking Around School 438.050
City Universities and Colleges:
Definitions 165.010

Municipal Colleges:
appropriations by general council 165.180–190
board of trustees, appointment 165.160
organizations, functions, and control 165.160
reports and audit 165.200
tax levy for 165.170

Municipal Junior Colleges:
appropriation of land 165.240
not operated by boards of education 165.260
organization, functions and control 165.210
report and audit 165.250
tax levy for 165.220
tuition fees, how fixed 165.230

Municipal Universities:
appropriation by aldermen 165.050–060
board of trustees:
acquisition of land, authority 165.070
appointment 165.020
building construction and bids, authority 165.130
employment of construction employes 165.120
report to mayor and aldermen 165.140
sale of bonds, duties 165.090
bond elections authorized 165.080
law school buildings, how acquired 165.150

organization, functions, and control 165.020
president:
bond 165.110
building construction and bids, authority 165.130
employment of construction employes 165.120
report to mayor and aldermen 165.140
sale of bonds, duties 165.090
withdrawal of funds, duties 165.090
tax levy for 165.030–040
teacher training 165.270
treasurer:
bond 165.110
withdrawal of funds, duties 165.090
use of bond proceeds 165.100

Civil Service System in City of Second Class 161.821–837
Claims, Interest of Superintendent in, Prohibited 160.420
Clerks, Number and Salary 160.390
Collections and Disbursements, Annual Statement of 61.290
Colored School for Deaf 167.080
Colored, Separate School for White and Colored 158.020
Commission Form of Government and Board of Education, Exceptions 89.280
Commissions, Officers Required to Have 61.020
Common School, Definition and Requisites 158.030
Common School, Right to Attend 158.030
Compensations Paid from School Fund 157.020
Composition, Department of Education 156.010
Compulsory Attendance and Exemption, Deaf Children 159.030, 167.090–110
Condemnation, School Property and Buildings 162.030
Conservation, Instruction in 158.280
Consolidation, Disposition of School Districts Upon 67.300
Construction and Repair, Duty of Business Director to Oversee .. 160.430
Construction Bonds, Additional 162.270
Construction Bonds, Bondholders' Rights 162.200–220
Construction Bonds, How Paid 162.230
Construction Bonds, Refunding 162.260
Construction Bonds, Sinking Fund 162.230–240
Construction Bonds, Terms, Effect, Validity 162.190
Construction Bonds, Terms, Sale 162.180
Construction Bonds, Use of Proceeds, Lien 162.200
Construction Bonds, When Authorized 162.170
Continuing Contract 161.740

Contracts:
Continuing, Superintendent 161.721
Continuing, Teacher 161.740
Limited 161.750

Termination by Teacher 161.780
Termination by Board 161.790
Suspension of 161.800
Under Annexation 161.810

Contracts, How Let, School Property and Buildings 162.070
Contribution of Members, Teachers' Retirement, Scale, Maximum 161.540
Contribution of State, Teachers' Retirement, Amount 161.550
Contributions, Private Funds 41.290
Conveyance by City to District, School Property 162.280
Conveyances to City, When Authorized, School Property 162.120
Copies, Price List, Fee, Bond, Filed—Textbooks 156.270
Corporation Tax 136.050, 136.180
Correctional Institutions, Free Distribution of Textbooks 157.190

Council on Public Higher Education:
Chairman, Duties 164.060, 164.080
Enforcement of Rulings 164.030
Expenses of Council and Members 164.040, 164,050
Meeting, Notice of 164.080
Meeting, Place of 164.070
Meetings, Number of 164.060
Membership and Chairman 164.010
Powers and Duties 164.020
Quorum, Requisite Vote 164.090
Secretary, Authority to Appoint 164.020
County Children's Bureau 200.140
County Health Officer 212.260
County Libraries and Extension Division 171.140
County Livestock Fund for Schools 258.340
County School District:
Accounts 156.200

Annexation:
debt, assumption of 160.065
of part, by independent district, how made 160.050
part of independent district, how made 160.060
Boards of Education:
annexation of part by independent district, approval 160.050
annexation of part of independent district, duties 160.060
manner of election 160.210, 160.240, 160.260
subdistrict property, supervision 160.120
subdistrict teachers, election and rejection 160.130
Discontinuance of Temporary Independent District, Effect 160.030
Districts, How Constituted 160.010
Independent District Boundaries, Effect of Annexation 160.070
Superintendents:
subdistrict teachers, may recommend 160.130
to advise with subdistrict trustee 160.120

Courses Required, University of Kentucky 164.120
Creation, Teachers' Retirement, Powers, Name 161.230
Credits and Promotions, Transfer 158.140
Custodian, Textbooks, Duties 157.150
Custody and Handling of Funds, Vocational Education 163.070
Deaf Children, Duties of Parents, Exemptions 167.090, 167.100, 167.120
Deaf Children, Acceptance and Transportation of 167.130
Debt Assumption on Annexation, School District 160.165
Deeds, Form of Conveyance to State 56.030
Definitions, Teachers' Retirement 161.220
Definitions, Vocational Education 163.010
Demotions, Teachers, How Made, Effect 161.760
Department of Education Controls, Vocational Education 156.010
Department of Education Includes, Deaf Education 156.010
Department of Education, Reports, Number to be Printed 57.140
Department of Health 212.260
Departments, State 12.030–050, 12.120–130
Depositories, Bonds, Conditions, Amounts, Renewals 62.060
Depository, School District:
Allowed Accounts, Certification by Board 160.560
Appointment, Bond, Duties, Term 160.570
Bond for Proceeds of Bond Issue 162.090
Funds, Deposit, Withdrawal 160.560
Diplomas and Degrees, Teachers Colleges 164.350
Disability Allowance, Amount, Range, Teachers' Retirement....161.660–670
Disability Retirement, Medical Examination, Teachers' Retirement 161.670
Disbursements 61.290
Discipline, Duty of Teachers 161.180
Distilled Spirits, Valuation Certified to County Clerk 132.150
Distribution of Books, When Disqualified 157.180
Distribution Prices, Textbooks 156.340
District—See Independent School District and County School District
District Board of Education May Furnish Textbooks 160.330
District Board of Education, Powers and Duties 160.290
District Board of Education, Repurchase of Books 156.350
District Bonds, Limitation on Amount 162.100
District Bonds, Election, Tax 162.080
District Bonds, Issue, Sale, Payment 162.090
District School Clerks 160.390
Divisions, Department of Education, Enumerated 156.010–020
Divisions, Establishment and Grouping, Department of Education 156.020
Drivers, School Bus, Age Limit 186.600
Duties of Parents, Compulsory Attendance 159.010–020
Duties, Teachers and Employes 161.170–180, 161.200–210
Duties, Teachers and Employes, by Whom Prescribed 161.140
Educational, Religious and Charitable Societies 273.010–080
Elections 160.220–260

Eligibility, for Vocational Education 163.060
Employes, Department of Education, Employment, Salary, Supervision 156.140
Employes, State, Removal of 42.140
Employing Agency and Its Officers, Duties, Teachers' Retirement 161.560–570

Employment of Children:
Cancellation of Permits and Certificates 339.060
Children, Limitations of Employment 339.010
Employer, Duties 339.070
Forms, Furnished by State Board of Education 339.060
Instruction Machinery Permitted 339.130
Limitations of Employment of Children 339.010, 339.115
Machinery in Schools Permitted 339.130
Saturday Work 339.115
School Requirements, Holders of Permits 339.040
Suspension and Revocation of Permits 339.080
Reports by Superintendents 339.080
Work Permits, School Requirements for Holders of 339.040

Employment, Teachers, District Board of Education to Regulate 160.290
Engineer or Architect Employed for Public Work 322.360
Epidemics, Closing of School 158.160
Equalization Fund, Eligibility for Aid From 157.053
Erection by City, School Buildings, When Authorized 162.130, 162.150
Errors in Payment, Correction, Teachers' Retirement 161.680
Escheats 162.040
Exemption from Jury Service 29.030
Exemption from Taxation, Teachers' Retirement, Process and Assignment 161.700
Exemptions, Compulsory Attendance 159.030
Expenses, Department of Education, Paid from School Fund 157.020
Expenses, Payment of, Teachers' Retirement 161.330–340
Expenses, Teachers, District Board May Pay 160.410
Expenses, Teachers, For Travel, When Allowed 156.190
Expulsion of Pupils 158.150
Faculty, State Negro Schools, Student Suspension, Etc. 166.140
Faculty, Teachers Colleges, Student Suspension, Etc. 164.370
False Statements and Records Prohibited, Teachers' Retirement 161.690
False Statements Prohibited 167.110
Federal Acts, Accepted, Vocational Education ..... 163'.020
Federal Acts, Administration, Vocational Education 163.030
Ferry Charges, School Children Not Required to Pay 280.320
Fire Prevention, Drills 227.030
Fiscal Year, School District, Exception 160.450
Flag of U. S. to be Supplied and Displayed 2.040–120
Forfeiture of Contribution, Disposition, Teachers' Retirement 161.530
Fort Knox 160.610
License Plates for Operators 186.015

For War Orphans, Textbooks 157.070
Franchise Taxes 136.050
Free Textbooks 157.100
Functions, Department of Education 156.010
Funds, Composition, Purpose, Transfer, Teachers' Retirement 161.420
Funds from National Forest Reserves, Right to Receive 149.130
Funds, Investment 41.295
Funds, Private and Contributions 41.290
Funds, Revolving Accounts 45.140
Gifts, Use Restricted 160.580
Gifts, Vocational Education, Authority of State Board 163.080
Governor, Vacancies in Office When Filled by 63.190
Handicapped Children, Special Books, Instruction, Equipment 159.060
Health Officer 212.260

High Schools:
Admission on Certificate 158.140
Graduates Exempt from Compulsory Attendance 159.030
Scholarships:
for war orphans, how paid 157.080
for war orphans, limitation 157.090
war orphans 157.070
War Orphans:
scholarships 157.070
scholarships, how paid 157.080
scholarships, limitation 157.090

Higher Negro Education:
Bond of State 164.520
Department of Education Controls 156.010
Kentucky State College:
agricultural and mechanic arts department, federal fund 166.030
departments, curricula, diplomas 166.120
functions 166.020
officers, teachers, employes; appointment, salaries, duties 166.050
officers, teachers, employes, removal from office 166.060
practice school 166.130
president: appointment, salary, term 166.050
duties 166.050–070
removal from office 166.060
reports, duty to make 166.110
property, acquisition, sale, proceeds 166.100
recognition, maintenance, and control 166.010
rules and regulations, adoption 166.110
state board of education, inspection 166.090
suspension or expulsion of student 166.140

teachers, duty to make reports 166.110
tuition and fees, how fixed 166.150
Lincoln Institute, Conveyance to Commonwealth 166.180
Scholarships:
for war orphans, how paid 157.080
for war orphans, limitation 157.090
war orphans 157.070
war veterans, application 164.500
war veterans, eligibility 164.480–490
State Board of Education:
control vested in 156.070
property, may hold 156.070
publications, duty to provide for 156.230
State Superintendent, Authority of 156.130
Tuition in Out-of-State Schools 166.160–170
War Orphans:
scholarships 157.070
scholarships, how paid 157.080
scholarships, limitation 157.090
War Veterans:
scholarships, application 164.500
scholarships, eligibility 164.480–490
West Kentucky Vocational Training School:
departments, curricula, diplomas 166.120
functions 166.040
officers, teachers, employes; appointment, salaries, duties 166.050
officers, teachers, employes, removal from office 166.060
president:
appointment, salary, term 166.050
duties 166.050–070
removal from office 166.060
reports, duty to make 166.110
property, acquisition, sale proceeds 166.100
recognition, maintenance, and control 166.010
rules and regulations, adoption 166.110
State Board of Education, inspection 166.090
suspension or expulsion of students 166.140
teachers, duty to make reports 166.110
tuition and fees, how fixed 166.150
Holidays, When Counted as School Days 158.060
Home Economics and Agricultural Extension, Donations for 247.080
Independent School Districts:
Accounts 156.200
Annexation:
debt, assumption of 160.065
of part, by county district, how made 160.060
part of county district, how made 160.050

Boards of Education:
annexation of part, by county district, approval 160.060
annexation of part by county district, duties 160.050
appropriation of land, municipal junior college 165.240
business director, appointment, etc., duties 160.430
business director's appointees, approval, salaries, qualifications 160.430
insurance fund, authority to create 162.440
insurance fund, investment and care 162.460
insurance fund, maintenance 162.450
insurance fund, misappropriation forbidden 162.500
insurance fund, report of loss 162.480
insurance fund, use 162.490
manner of election 160.210, 160.240, 160.260
municipal junior colleges, acquisition, creation 165.210
municipal junior colleges, tax levy 165.220
municipal junior colleges, tuition fees 165.230
parental or truant schools, creation and regulation....159.190–200
property inspection, second-class cities 162.470
report and audit, municipal junior college 165.250
tax bills, to pay for preparation 160.500
teacher training, first-class cities 165.270
treasurer, duties concerning college fund 165.230

Boundaries, on Annexation by County District 160.070
Business Director, Appointment, etc., duties 160.430
Business Director, May be Secretary of Board 160.440
Business Director, Report of Property Loss 162.480
Discontinuance of Temporary District, Effect 160.030
Districts, How Constituted 160.020
In Two or More County Districts, on Reverter 160.080
Revenue and Taxation:
collector, special, may be appointed, bond 160.500
tax bills, district board to pay for preparation 160.500
Superintendents: business directors, status of 160.430
Tax for Bond Retirement, Reverted Districts 160.080
Temporary, When Permitted 160.030

Industrial Schools May Be Established 158.090

Inspection, School Property, in Second-Class Cities 162.470

Instruction on Alcoholic Liquor and Narcotics 158.270

Insurance Fund:
Creation and Use 162.440
Investment and Care 162.460
Maintenance 162.450
Maximum Limit 162.450
Misappropriation Forbidden 162.500
Report of Loss 162.480
Use 162.490

Insurance Inspector 162.470
Insurance, Transportation of Children 160.310
Interest-bearing, Warrants 41.180
Interest on Funds, Teachers' Retirement, Apportionment 161.440
Jefferson County Children's Home 160.620
Junior College:
In Cities of Second Class 165.210-260
In Cities of First Class 165.270
In County Containing City of Fourth Class 165.280–310
Jury Service, Exempt From 29.030
Kentucky School for the Blind, School Property and Building 167.140
Kentucky School for the Blind, Teachers, Employes 167.150
Kentucky School for the Deaf:
Appropriations, Funds 167.080
Board of Commissioners:
appointment, term, style, powers, control, quorum 167.020
colored school, control 167.080
donations, authority to receive, use 167.050
government 167.020
name, nature, tuition 167.010
officers and teachers, appointment, etc. 167.070
property, acquisition and sale 167.040
property, control, and authority 167.060
records and reports 167.030
superintendent, duties 167.070–080
textbooks 167.060
Kentucky State College—See Higher Negro Education
Kindergartens May be Established 158.090
Land, Conveyance to State, Form of Deed 56.030
Law School Buildings, Municipal Universities 165.150
Lease From City, Terms, School Property and Building....162.140, 162.160
Leaves of Absence, Teachers 161.770
Library, County and Extension Division 171.140
Lincoln Institute—See Higher Negro Education
Livestock Fund for Schools 258.340
Local Systems, Teachers' Retirement, Discontinuance, Effect.... 161.710
Maintenance Fund, School Property and Building 162.230, 162.250
May Not Act as Textbook Agent, Teachers 156.360
Mayo State Vocational School, Authority, Purpose, Control 163.090
Medical Director, Teachers' Retirement, Selection, Duties, Reports 161.410
Membership, How Terminated, Effect, Teachers Retirement 161.520
Membership, Teachers' Retirement 161.470
Merger, School Districts, How Made, Effect 160.040
Millers' Toll Charge and School Fund 363.100
Moral Instruction:
Attendance Credit For 158.240
Cost of Instruction 158.260

Failure of Pupils to Take, Effect 158.250
Provision For 158.200–260
Survey of Religious Preference of Pupils Desiring 158.210
Time and Place, How Fixed 158.220
Motor Laws, Exemptions, School Buses 281.020
Municipal College, Acquisition, Property 165.190
Municipal Junior College, Acquisition, Property 165.240
Municipal University, Acquisition, Property 165.060
Municipal University, Construction, Employment of Advisers 165.120
Municipal University, Construction, How Let 165.130
National Guard, Credit When Called into Service 38.470
Negro Children, Vocational Education 166.040
New Teachers, Compulsory Membership Teachers' Retirement, Prior-Service Credit 161.510
Night and Industrial Schools May be Established 158.090
Nomination for Board Education, When File Certificates 118.130
Nonresident Tuition 158.120
Northern Kentucky State Vocational School 163.100
Oaths, District Superintendent May Administer to Teachers 160.370
Office of State Board of Education, Where Located 156.060
Officers, Commissions Required 61.020
Officers, Public, Annual Statement 61.290, 424.010
Official Retail Agent, Textbooks 156.340
Organization, Vocational Education 163.050
Out of State Negro Tuition 166.170

Parental or Truant Schools:
Creation, Regulation 159.190–200
Probation 159.220–230
Religious Instruction 159.210
Parents Responsible for Violations, Attendance 159.180
Passing School Buses When Stopped 189.370
Payment of Allowances, Decreased Retired Member, Teachers' Retirement 161.650
Payment of Allowances, Time and Amount, Teachers Retirement 161.640
Persons Distributing Textbooks, When Disqualified 157.180
Persons Exempt from Jury Service 29.030
Physical Training, University of Kentucky 164.200
Physiology and Hygiene 158.270
Playgrounds and Recreation Centers 97.010
Poll Tax Exemption 142.020

Principals:
Appointment, Promotion, Transfer, How Made 160.380
Certification 161.020, 161.080
Distribution of Books, When Disqualified 157.180
Expenses of Travel, When Paid 156.190
Instruction on Alcoholic Liquor and Narcotics, duties, penalties 158.270
Removal from Office 156.110

Report of Pupils in Attendance 159.160
Suspension of Pupil, Authority 158.150
Textbook:
custodian and sale of, duties 157.150, 157.170
purchase for free distribution, duties 157.120
Transfer of Pupils, Authority for 158.140
Printing by State Educational Institutions for Own Use 57.045
Prior-Service Certificates, Teachers' Retirement 161.510
Private Funds, Contributions 41.290
Private Schools:
Attendance Reports, Inspection 159.040
Business Schools, Scholarships for War Orphans 157.090
Certificate of Completion, Elementary School 158.140
Commercial Schools, Rules and Regulations, Authority of State Board 156.160
Compulsory Attendance, Exemption 159.030
Contract with District Board of Education 158.100
Course of Study, Term, Language Used 158.080
Duties 159.040
Parochial Schools:
attendance reports, inspection 159.040
certificate of completion, elementary schools 158.140
compulsory attendance, exemption 159.030
course of study, term, language used 158.080
report of pupils in attendance 159.160
rules and regulations, authority of state board 156.160
Report of Pupils in Attendance 159.160
Rules and Regulations, Authority of State Board 156.160
Secondary, Publication of Classified List 156.230
Technical Schools, Scholarships for War Orphans 157.090
Transportation, Rights of Pupils 158.110
Promotions, Pupil 158.140
Proof of Loss, School Property and Buildings, Second-Class Cities 162.480
Property of State, Textbooks 157.150
Property, Public (See Public Property).
Property, School 162.120
Acquisition of 162.290–300
Acquisition by Municipal University 165.060–70
Property Subject to Taxation:
Ad Valorem Tax 160.475
Annexed Property Assessment 133.070
Assessment, Equalization and Collection of Taxes on Shares of Banks and Trust Companies 136.280
Assessment is Certified by Tax Commission 133.185
Assessment of Property Annexed to Another Civil Division 133.070
Assessment on Right to Receive Income 132.215

Banks and Trust Companies, Assessment and Taxes on Shares 136.280
Bank Shares, Tax on Rates 136.270
Boundaries of Districts Reported by Superintendents and Clerks 136.190
Bridges, Railroad Taxed by Local District 136.200
Building Fund, Tax for 160.476
Certification Public Service Corporations 136.180
Corporation Evaluations of, Certified to County Clerks 136.180
County Clerk Computes Amounts Tax Due, Compensation 132.550
County Clerks, Report Boundaries of Taxing Districts..... 136.190
Exempt from Poll Tax, Individuals 142.020
Franchise Taxes of Corporations, Interest, Penalty 136.050
Individuals Exempt From Poll Tax 142.020
Interest, Penalty on Corporation Franchise Taxes 136.050
Lien for Taxes 134.420
Limitations, Action Against Sheriff and Sureties 134.270
Local Taxation of Railroads and Railroad Bridges 136.200
Payment of Corporation Property and Franchise Taxes 136.050
Penalties on Assessment and Collection of Taxes 136.990
Poll Tax, Individuals Exempt from 142.020
Property Subject Only to State Taxation 132.200
Property Subject to Taxation, Situs 132.190
Railroads and Railroad Bridge Valuation 136.200
Report Boundaries of District by Superintendent and Clerks 136.190
Reports of Banks and Trust Companies, Assessment and Collection of Taxes in Shares 136.280
School Superintendent, Report Boundaries, Districts 136.190
Shares, Bank, Tax on Rates 136.270
Sheriff's Settlement, Limitation of Action Against 134.270
State Tax Only, Property Subject to 132.200
Taxation of Railroads, etc., by Local Districts 136.200
Taxation, Property Subject to 132.190
Tax Due for Each Taxpayer by County Clerk, Compensation for 132.550
Taxes, Lien for 134.420
Taxing District Boundaries Reported 136.190
Tax on Bank Shares, Rates 136.270
Tax Rates, On Bank Shares and Trust Companies 136.270
Time of Payment Corporation Property Franchise Taxes 136.050
Trust Companies, Tax on, Rates 136.270
Valuation of Railroads Subject to Local Tax 136.200

Property Titles, Estate, Improvements 162.010

Public Property:

Cigarette Smoking Around School 438.050
Damage, Willfully a School House 433.480
Fines for Trespass or Injury of Public Property 433.490

Housebreaking 433.180
Property Trespass or Injury to 433.490
Robbery in School House 433.180
Public Report, School District, May Prepare and Publish 160.340
Public Work, Architect or Engineer to be Employed 322.360
Public Works Cumulative Fund, Uses to Which May be Devoted 66.430
Publish Receipts and Expenditures, Public Officers 61.290, 424.010
Purchase for Free Distribution, Textbooks 157.100–120
Purchase from Municipal University Bond Proceeds 165.100
Railroad Crossing, Stop School Buses 189.550
Reading of Bible, When Not Required of Pupils 158.170
Records of Departments, How Kept 12.130
Records, State Superintendent Has Access to Teachers' 156.210
Regulations, Duty of Pupils to Comply 158.150
Rejection of Contract, Notice to Board by Teachers 161.750
Religious, Charitable and Educational Societies 273.010–080
Removal from Office, Teachers 156.110, 161.170
Removal of State Employes 42.140
Reports in State Negro Schools, of Teachers 166.110
Reports of Department of Education, Number to be Printed 57.140
Reports, of Pupils in Attendance 159.160
Reports, School District, Examination and Supervision 156.200
Retirement Allowances, Amount, Range, Teachers' Retirement 161.620
Retirement Allowances, Payment, Maximum, Teachers' Retirement 161.630
Retirement, Eligibility for, Application, Teachers' Retirement 161.600
Retirement Fund, Actuary 161.400
Retirement, Out-of-State Credit 161.515
Retirement, Teachers in Non-Educational State Institutions ..161.515–516
Return of Textbooks, Reissuance 157.140
Revenue and Taxation:
Collection 160.500
Collector, Duties on Collection 160.510
Merger of Districts, Tax Levies Continued 160.040
Poll Tax, Maximum, Exception 160.480
School Taxes, How Levied, Subject Property 160.460
Tax Bills, by Whom Prepared, Fee 160.500
Tax Delinquency, General Laws Apply 160.520
Use of School Money 160.530
Revolving Funds, Account 45.140
Reward for Securing Adoption Textbooks, Prohibited 156.370
Rights of Teachers Under Suspended Continuing Contract 161.790–810
Robbery, School House 433.180
Rules and Regulations, Authority of State Board 156.160
Rules and Regulations, Board of Regents 164.350
Rules and Regulations, for Purchase, Etc., of Textbooks 157.130, 157.160–170
Salaries, Notice to Teacher, Changes 161.760

Salaries of Teachers, Minimum, Schedules 161.150
Salaries, Subject to Attachment 427.130
Sale of Textbooks to Private and Sectarian Schools 157.170
Saturday Teaching Prohibited, Exception 158.060
Scholarships for War Orphans 157.070

School Busses:
Age Limit, School Bus Drivers 186.600
Board-owned School Buses, Licensed Free 186.060
Buses, School License Fee 186.050
Drivers, Age Limit 186.600
Exemption From Motor Laws, School Buses 281.020
Fees, Registration School Buses 186.050
Flares, Trucks to Carry 189.070
Governmental Units, No License Fee 186.060
Insurance 160.310
License Fees, School Buses 186.050
Lights, Rear, Side and Clearance 189.050
Motor Laws, School Buses Exempted 281.020
Motor Vehicles Owned by Governmental Units 186.060
Passing Stopped School Bus 189.370
Railroad Crossing, School Buses Stop 189.550
Registration Fees, School Buses 186.050
Regulations for School Buses 189.540
Safety Glass, School Buses to Have 189.120
School Bus Drivers, Age Limit 186.600
School Bus, Passing Stopped, Regulations, Railroad Crossings 189.370, 189.540, 189.550
School Buses, Board-owned, Licensed Free 186.060
School Buses, License Fee 186.050
State Board Education, Make School Bus Regulations 189.540
Stopped School Bus, Passing 189.370
Stop, School Buses at Railroad Crossings 189.550
Transportation, School Buses, Regulations for 189.540

School Day and Daily Session Defined 158.060
School Districts, Maximum Debt Limit Does Not Apply 287.290
School for White and Colored, Prohibited 158.020

School Fund:
Apportionment 157.040
Colleges and Universities 164.520, 166.030
Distribution 157.030, 157.050
Paid into State Treasury 157.020
Purposes and Restriction on Use 157.020–030
What Constitutes 157.010

School Month 158.060
School Service, Provision For 158.100
School Term, Duration and Extension 158.070
School Year 158.050
Scope, Teachers' Retirement 161.240

Secretary of District Board of Education 160.440
Selection, Compensation, of Teachers, in Two or More County Subdistricts 160.080
Service Credit, Teachers' Retirement 161.590
Smoking Cigarettes Around School 438.050
Societies, Religious, Charitable and Educational 273.010–080
Soil Conservation Committee, Membership 262.030
Special Funds, School District, Conversion of Principal to General Fund 160.590

State Attendance Officer:
Attendance Officers, Duty to Report 159.140
Attendance, Supervision of 159.130
Blind and Deaf Children, Duty 159.050
Duties 156.140

State Board of Education:
Appeal by Demoted Teacher 161.760
Appeal by District Board, Selection of Employes 163.380
Appointment, Term, Vacancies, of Members 156.030
Attendance Districts, Duties 159.070
Attendance Officers, Records, Reports, Other Assigned Duties 159.140
Attendance Officers, Supervision of 159.130
Bond of Depository, Form and Approval 160.570
Bond of District School Board Treasurer, Approval, Filing.. 160.560
Budgets, District School, Filing, Approval 160.470
Census Report, Form Prescribed 159.260
Census, to Regulate and Provide Forms for 156.080
Certification Authority and Duties 161.030, 161.090–120
Certification of School Employes, Duties of 156.090
Classified List of Secondary Schools, Duty to Publish 156.230
Composition 156.030
Comprises Part of Department 156.010
Compulsory Attendance and School Census 156.140
Control of Schools 156.070
District Boards of Education to Report 160.340
District Tax Levy, Approval 160.460
Division Heads and Professional Staff, Appointment and Removal 156.140
Divisions, Establishment 156.020
Duties and Powers 156.070
Emergency Subdistricts, Approval of 160.070

Equalization Fund:
allotment, approval of 157.054
allotment, approved 157.053
definition for 157.051
rules and regulations, authority to approve 157.055
Expenditures in Excess of District Budget, Authorize 160.550

Expenses, Council on Public Higher Education 164.050
Federal Aid, Authority 156.100
Federal Vocational Education Acts, Administration 163.030
Financial Reports Made to 157.060
Forms for Tax Collector, Duty to Furnish 160.510
Gifts, May Accept and Administer 156.100
Gifts for Vocational Education, May Receive 163.080
Handicapped Children, Special Provision 159.060
Higher Negro Education, Duties and
Powers 166.010–020, 166.050–070, 166.090–150, 166.170
Independent District Boundaries, Alteration on,
Annexation, Approval 160.070
Independent Districts, Discontinuance, Effect 160.020, 160.030
Kentucky State College, Financial Aid 166.030
Mayo State Vocational School, Control 163.090
Meetings at State Negro Institutions 166.090
Meetings, Notice of 156.060
Meetings, Time of 156.060
Misconduct of Officials, Duties Relating to 156.210
Nonresident Tuition 158.120
Offices, Location of; How Provided 156.060
Organization of, When 156.050
Private Schools, Compulsory Attendance 159.040
Property, May Hold, When 156.070
Publications, Duty to Provide for 156.230
Qualifications of Board Members 156.040
Quorum 156.060
Removal of Officers 156.110
Regulations, for School Buses 189.540
Report, Biennial, Contents 156.250
Representation, Council on Public Higher Education 164.010
Rules and Regulations, Authority to Adopt 156.160
Rules, Etc., Executed by District Superintendent 160.370
Rules, Etc., Publishing of; When Effective 156.070
Rules, Regulations, Etc., Publication of 156.230
Rules, to Adopt 156.050
Salaries of Teachers, Authority 161.150
Salary and Expenses 156.060
Saturday Teaching, May Authorize 158.060
Scholarships, Duties Relating to 157.080

Scholarships:

for war orphans, duties relating to 157.080
for war orphans, limitation, disposition or surplus 157.090
war orphans 157.070

School Board Members, Removal from Office 156.110
School for Blind, Control, Authority 167.140–190
School Laws, Publication of 156.240
School Term, Approval of Extension 158.070

Schools, Teach Fire Prevention 227.030
Secretary and Treasurer, Duties 166.080
Secretary, Election, Qualifications, and Duties ..156.050–060, 157.080
State Superintendent is Executive Officer 156.130
State Superintendent, to Prescribe 156.130
Status, Title, Powers 156.030
Superintendent has General Supervision, Conduct of Schools 160.370–390
Temporary Independent Districts, When Permitted 160.030
Textbooks:
bond, penalty, fixed by 156.270
correctional institutions, free textbooks 157.190
purchase for free distribution 157.100–120
rules and regulations for purchase, etc. 157.130
samples, disposition of 156.380
Vacancy on District Board, When Filled by 160.190
Violations of School Law, Duties Relating to 156.210
Vocational Education Appropriations, Control 156.070, 163.040
Vocational Education, Duties 163.050
War Orphans:
scholarships, authority to establish 157.070
scholarships, limitation, disposition of surplus 157.090
Withdrawals, Transfers, Forms to be Prescribed 159.170
State Departments 12.030–050, 12.120–130
State Educational Institutions:
Construction Bonds, Funds, Duties 162.360
Construction Bonds, Maintenance Fund, Surplus 162.370
Construction Bonds, Terms, Effect, Contracts 162.380
Construction by Bond Method 162.340–350
Construction by Individual, Authority, Plans, Contract, Bond 162.320
Conveyance by, When Authorized 162.310
Lease and Conveyance from Individual 162.330
State Employes, Removal of 42.140
Statements, Annual of Collections to be Published 61.290, 424.010
Statements, Teachers' Retirement, Investigation of, Certificate of Membership 161.490
Statements Teachers' Retirement, Required, Contents 161.480
State Negro Schools, Departments, Curricula, Diploma 166.120
State Property, Lands, Buildings, Leases, Grants of Land 56.030
State Schools for Negroes, Appointment Teachers, Salaries, Duties 166.050
State Schools for Negroes, Removal from Office, of Teachers.... 166.060
State Superintendent, Authority of 156.130
State Teachers Colleges:
Board of Regents:
chairman, duty to call meetings 164.340
creation and style 164.310

depository, appointment, bond, term, interest, duties.... 164.440
duties 164.030
expenses, Council on Public Higher Education 164.040–050
general powers 164.350
interest in college contract prohibited 164.390
meetings, quorum, requisite vote 164.340
membership, term, oath, compatibility, not public officers 164.320
organization, officers, expenses 164.330
practice schools, authority 164.380
president, faculty, employes, appointment, etc. 164.360
property, acquisition and sale 164.400
report of president 164.460
representation, Council on Public Higher Education 164.010
secretary, duties, and salary 164.450
suspension or expulsion of students 164.370
treasurer, duties 164.420
tuition and fees, authority, disposition 164.400
Contracts, Interest of Employe Prohibited 164.390
Council on Public Higher Education, Representation 164.010
Curriculum, Fees, Admission Requirements, Budget 164.020
Department of Education Includes 156.010
Diplomas and Degrees 164.350
Expenses, Council on Public Higher Education 164.040–050
Expenses of Regents, Payments 164.330
Faculty and Employes, Appointment, Etc. 164.360
Faculty Recommendation, Diplomas and Degrees 164.350
Practice Schools 164.380
President:
appointment, term, removal 164.360
member, Council on Public Higher Education 164.010
recommendation of diplomas and degrees 164.350
report to regents 164.460
Property, Acquisition and Sale 164.410
Purpose 164.300
Recognition and Maintenance 164.290
Scholarships:
for war orphans, how paid 157.080
for war orphans, limitation 157.090
war veterans, application 164.500
war veterans, eligibility 164.480–490
Suspension or Expulsion of Student 164.370
Tuition and Fees, How Fixed, Disposition 164.400
Use of Funds 164.470
War Orphans:
scholarship, application 164.500
scholarship, eligibility 164.480–490
scholarships 157.070

scholarships, how paid 157.080
scholarships, limitation 157.090

State Textbook Commission:
Adoption by, Conditions 156.270
Basal Texts, Selection and Adoption 156.310–320
Department of Education Includes 156.010
Membership, Appointment, Term, Qualifications, Organization 156.260
Samples, Disposition of 156.380
State Universities and Colleges 164.030–040
Students, Credit When Called Into Active Service 38.470

Subdistricts:
Bonds, Effect on Boundary Extensions 160.070
Boundary Extension, Procedure 160.070
Contract, Two or More County Subdistricts, Filing 160.080
Creation, Change, Discontinuance, Transfer of Children 160.070
In Two or More Counties 160.080
Tax Abolished 160.475
Taxation for Bond Retirement, Effect of Boundary Extension 160.070
Subdistrict Bonds, Election, Tax 162.110

Subdistrict Trustees:
Duties Generally 160.120
Election, Term, Qualifications 160.090
Election, Time, Place and Method 160.110
Nomination of Teachers 160.130
Notice of Candidacy, Qualification of Voters, Ballots 160.100
Vacancies in Office, How Filled, Term, Eligibility 160.140

Superintendent of Public Instruction:
Accounts, Duty to Examine and Supervise 156.200
Annexation of Part of Independent district by county, approval 160.060
Annexation of Part of County District by Independent, approval 160.050
Assistant, Authority of 156.130
Assistants to Receive Expenses 156.120
Blind and Deaf Children, Duty 159.050
Boards of Regents, Duties 164.330
Bond 156.120
Bond of Depositories, to Prescribe Form 160.570
Budget, State School, Preparation 156.160
Census Report, Contents Prescribed, Filing 159.260
Census, Special 156.170
Census, to Prescribe Data For 159.250
Certificates, Duties 161.030, 161.090, 161.100, 161.120
Certification of School Employes, Duties of 156.090
Chairman, Boards of Regents 164.320

Chairman, Council on Public Higher Education 164.010
Chairman, Council on Public Higher Education,
Duties 164.060, 164.080
Expenses, Council on Public Higher Education 164.050
Chairman of Board of Education 156.030
Classified List of Secondary Schools, Duty to Prepare 156.230
Conferences, Authority to Call 156.190
Conferences, Expenses of Travel 156.190
Controversies in Administration, How Decided 156.220
Conventions, Expense Allowance 156.180
Council on Public Higher Education 164.060, 164.080
District Superintendent's Certification, Statement of 160.350
Divisions, Establishment and Grouping 156.020
Duties 156.130
Election of Teachers' Retirement Trustees, Duty to
Supervise 161.260
Employes of Department, Appointment, Salary, Supervision,
Removal 156.140

Equalization Fund:
allotment and distribution, time 157.052
allotment, duties 157.053
application for aid filed with 157.052
definitions for 157.051
rules and regulations, authority to prescribe 157.055
Evidence, Authority to Take 156.210
Expense for Travel 156.180
Forms for District Treasurer's Bond 160.560
Head of Department 156.010
Meetings of Board, Duty to Call 156.060
Meetings of Board, to Call 156.050
Member, University of Kentucky Trustees 164.130
Misconduct of Officials, Duties Relating to 156.210
Night and Industrial Schools, May Approve 158.090
Oaths, Authority to Administer 156.210
Office, Location of 156.120
Out-of-State Negro Tuition, Duties 166.170
Plans of School Buildings, Approval 162.060, 162.160
Process, Authority to Issue 156.210
Publication, Duty to Prepare for 156.230
Records of School Officials, Access to 156.210
Removal of Officers 156.110
Report of State Board, Preparation, Contents 156.250
Report of Treasurer, Board of Regents 164.420
Reports, Examinations and Supervision 156.200
Rules and Regulations Prepared 156.160
Rules, Etc., to Recommend 156.070
Rules, Regulations, Etc., Preparation for Publication 156.230
Rules and Regulations, Vocational Education 163.050

Salary, Expenses 156.120
School Board Members and School Officials, May Recommend Removal 156.110
School Fund Apportionment, Duties 157.040
School Fund Distribution, Duties 157.050
School Laws, Preparation for Publication 156.240
School Term, May Extend 158.070
Secondary School, Clasified List Published 156.230
State Board, Executive Officer of 156.130
Suspension of Teacher's Certificate, Authority 161.780
Textbooks, Approval of Physiology and Hygiene 158.270
Textbooks:
bonds, violations of, duties 156.300
copies, price lists, fees, bonds, filed with 156.270
correctional institutions, free textbooks, duties 157.190
purchase for free distribution 157.100, 157.120
rules and regulations for purchase, etc. 157.130, 157.160, 157.170
state textbook commission, member and secretary of 156.260
Trustee of Teachers' Retirement System 161.250
Violations of School Law, Duties Relating to 156.210
Witnesses, Authority to Examine 156.210

Superintendents:
Appointment and Removal of Clerks 160.390
Appointment, Promotion, and Transfer of School Employes 160.380
Assistant, May be Secretary of Board 160.440
Assistants, Appointment, Compensation 160.360
Attendance Officers, Appointment, Compensation 159.080
Attendance Officers, Duty to Report 159.140
Attendance Officers in United Attendance Districts 159.090
Attendance Officers' Office is Superintendents' Office 159.120
Attendance Officers, Supervision 159.130
Attendance of Pupil Prohibited, Duty 158.160
Budget Not to be Exceeded, Exception 160.550
Census, Supervision of 159.250
Certification 161.020, 161.080
Distribution of Books, When Disqualified 157.180
Duties as Executive Head of District Board 160.370
Duties of Supervision 160.390
Expenses, District Board May Pay 160.410
Expenses of Travel, When Paid 156.190
Free Textbooks and Supplies, Duty to Report Need for 160.330
Instruction on Alcoholic Liquor and Narcotics, Duties, Penalties 158.270
May Not Act as Textbook Agent 156.360
Outgoing, Duties 160.400
Removal From Office 156.110
Removal of Teachers, Recommendation 161.170
Report of Pupils in Attendance 159.160

Responsible to Boards of Education 160.390
Secretary of Board, May Be 160.440
Subdistricts, Two or More Counties 160.080
Subdistrict Trustee, Filing of Notice of Candidacy 160.100
Suspension of Pupil, Authority 158.150
Suspension of Teachers' Contracts, Authority 161.800
Teacher Demotions, Authority 161.760
Teachers' Claims, Interest In, Prohibited 160.420
Teachers' Contracts, Authority 161.740
Textbooks:
basal texts, recommendations 156.310, 156.320
bonds, violations of, duties 156.300
custodian and sale of, duties 157.150, 157.170
purchase for free distribution, duties 157.120
Transfer of Pupils, Authority of 158.140
Vacancies in Office of Subdistrict Trustee 160.140
Withdrawals and Transfers 159.170

Supervisor
Certification 161.020, 161.080
Expenses of Travel, When Paid 156.190
Surplus Funds of Agencies Not Supported by Taxation, Investment of 41.295
Suspension and Dismissal, University of Kentucky 164.200
Suspension or Expulsion, Teachers Colleges 164.370
Suspension and Expulsion of Pupils 158.150
Suspension, Etc., State Negro Schools 166.140
Taxation—See Property Subject to Taxation
Taxing District Bonds, When Issued, Proof 66.210-220
Tax Rate, Maximum on Distilled Spirits First Class Cities 132.150
Teachers Colleges, Acquisition and Sale, Property and Buildings 164.410
Teachers Colleges, Appointment, Salary, Term, Removal 164.360
Teachers Colleges, Contract, Interest Prohibited 164.390
Teachers' Tenure:
Continuing Contract, When Required, Exception 161.740
Continuing Service Status, Eligibility 161.740
Definitions 161.720
Demotions, How Made, Effect 161.760
Leaves of Absence 161.770
Limited Contracts, When Required, Duration 161.750
Military Leaves, Replacement, Reinstatement 161.740
Salaries, Notice to Teachers, Changes 161.760
Suspension of Contracts Permitted, Rights 161.790–810
Teachers' Contracts, Types Required 161.730
Teaching in School for White and Colored, Prohibited 158.020
Temporary Independent School District, Discontinuance 160.030
Temporary Residence, Effect on Attendance 159.010

Tenure—See Teachers' Tenure Superintendent's 161.721
Termination of Teachers' Contract, Procedure 161.780–790

Textbooks:
Basal Texts, Unapproved Books 156.330
Change, When Allowed 156.330
Purchase of, Conditions 156.270
Title, Estate, Improvements 162.010
Title, State Board of Education, When May Hold 156.070
Toll, School Children Not to Pay 180.320, 280.320
Training of Negro Teachers 166.020
Training, Teachers, in First-Class City Districts 165.270
Training, Teachers, in Kentucky State College 166.130
Training, Teachers, in State Teachers Colleges 164.380
Transfer, Property, from District, Ownership, Sale 162.020
Transfer, Pupils from District, Duty 159.020

Transportation (See School Buses):
Handicapped Children 159.060
Insurance Against Drivers' or Operators' Negligence 160.310
Of Pupils, When Provided 158.100–110
Supplementation Out of General Funds 158.115

Travel, Expenses, Officers and Employes 156.190

Treasurer:
Annuity Fund, Audit and Additional Bond 161.710
Appointment, Removal, Bond, Duties 160.560
College Fund, Duties 165.230
Secretary May Act As 160.560
Trespass Privilege, Passway to School 160.320, 433.490
Truancy and Tardiness, What Constitutes 159.150
Truant Schools, Religious Instruction in 159.210
Tuition Contracts, When Authorized 158.130
Tuition May be Required, When 158.030
Tuition of Negroes Attending Out-of-State Schools 166.160–170
Tuition, State Negro Schools 166.150
Uniform System of Common Schools Provided 158.010
United Attendance Districts, Attendance Officers 159.090

University of Kentucky:
Alumni, Selection of Trustees 164.140
Board of Trustees:
acquisition of property, methods 164.260
alumni members, selection 164.140
chairman, duty to call meetings 164.170
corporate style and powers 164.160
degrees and honors, authority 164.240
disbursements, treasurer's bond and report 164.280
duties 164.030
expenses, Council on Public Higher Education 164.040–050

executive committee, selection, powers, duties 164.190
faculty:
appointment, salaries, duties 164.220
suspension and removal 164.230
land, authority to sell, proceeds 164.270
meetings, notice, place, quorum, expenses 164.170
membership, appointment, term 164.130
not public officers 164.150
organization 164.180
organization of university powers 164.210
president:
appointment, salaries, duties 164.220
suspension and removal 164.230
reports, number to be printed 57.140
report to General Assembly 164.250
representation, Council on Public Higher Education.... 164.010
rules and regulations, authority 164.200
treasurer's report 164.280
Bond of State 164.520
Colleges and Schools Comprising 164.120
Council on Public Higher Education, Representation 164.010
Courses Required 164.120
Curriculum, Fees, Admission Requirements, Budget 164.020
Dean of Education, Member, Council on Public Higher Education 164.010
Degrees and Honors, How Granted 164.240
Department of Education Includes 156.010
Duties, Chairman, Council on Public Higher Education 164.060, 164.080
Expenses, Council on Public Higher Education 164.040, 164.050
Expenses of Trustees, Duty to Pay 164.170
Faculty:
appointment, salaries, duties 164.220
recommendation of degrees and honors 164.240
suspension and removal 164.230
Organization, How Effected 164.210
President:
appointment, salaries, duties 164.220
member, Council on Public Higher Education 164.010
suspension and removal 164.230
Prior Legislation, Regulations, Revenue, Continued 164.110
Recognition and Maintenance 164.100
Reports, Number to be Printed 57.140

Scholarships:
for war orphans, how paid 157.080
for war orphans, limitation 157.090
war orphans 157.070
war veterans, application 164.500

war veterans, eligibility 164.480–490
Suspension and Dismissal of Students 164.200
Treasurer, Bond, Duties 164.280

War Orphans:
scholarships 157.070
scholarships, how paid 157.080
scholarships, limitation 157.090
War Veterans:
scholarships, application 164.500
scholarships, eligibility 164.480–490

Use, School Property for Public Purposes 162.050
Vacancies in Office, When Filled by the Governor 63.190
Veterans, Free Scholars 164.480

Vocational Education:
Appropriations, How Paid 163.040
Custody and Handling of Funds 163.070
Definitions 163.010
Department of Education Controls 156.010
Eligibility 163.060
Federal Acts, Accepted 163.020
Federal Acts, Administration 163.030
Gifts, Authority of State Board 163.080
Industrial Schools May be Established 158.090
Mayo State Vocational School, Authority, Purpose, Control 163.090
Negro Children 166.040
Northern Kentucky State Vocational School 163.100
Organization 163.050
Scholarships for War Orphans 157.090

State Board of Education:
control vested in 156.070
publications, duty to provide for 156.230
State Superintendent, Authority of 156.130
War Orphans, Scholarships for 157.090
West Kentucky Vocational Training School 166.010

Voting Privilege, Election of Teachers' Retirement Trustees 161.260
Wages, Sale to be Included in Building Specifications 337.510
Scholarship for War Orphans 157.070
Warrants, How and When Issued 41.180
West Kentucky Vocational Training School 166.010
White and Colored School Prohibited 158.020
Withdrawal and Transfers, Teachers, Pupils 159.170
Withdrawal, Continuance of Payments, Teachers' Retirement 161.610
Work Permits (See Employment of Children).

480–490
164.200
164.280

157.070
157.080
157.090

164.500
480–490
162.050
63.190
164.480

163.040
163.070
163.010
156.010
163.060
163.020
163.030
163.080
158.090
163.090
166.040
163.100
163.050
157.090

156.070
156.230
156.130
157.090
166.010
161.260
337.510
157.070
41.180
166.010
158.020
159.170
161.610

LIST OF SECTIONS OF KENTUCKY REVISED STATUTES AND SECTIONS OF THE CONSTITUTION CONTAINED IN THE COMMON SCHOOL LAWS

Kentucky Constitution

Section	Page	Section	Page
5	81	169	87
55	82	179	87
59	82	180	88
91	82	183	88
93	83	184	88
95	83	185	89
96	83	186	89
152	83	187	90
155	84	188	90
157	84	189	91
158	86	228	91
165	87	237	91

Kentucky Revised Statutes

Section	Page	Section	Page
2.040	95	62.170	106
2.050	95	62.180	106
2.060	95	62.190	107
2.120	96	62.200	107
2.990	96	63.190	108
12.030	96	66.210	108
12.050	96	66.220	109
12.120	97	66.430	110
29.030	97	67.300	110
38.470	97	89.280	111
41.180	97	97.010	111
41.290	98	118.130	112
41.295	98	132.150	112
42.140	99	132.190	112
45.140	99	132.200	114
56.030	100	132.215	115
57.045	101	132.550	116
57.140 (2)	101	133.070	116
61.020	101	133.185	117
61.290	101	134.270	117
61.330	103	134.420	117
62.060	103	136.050	118
62.070	104	136.180	119
62.080	104	136.190	119
62.160	104	136.200	120

Section	Page
136.270	120
136.280	120
136.990	120
142.020	120
156.010	139
156.020	140
156.030	140
156.040	141
156.050	141
156.060	141
156.070	142
156.080	142
156.090	142
156.100	143
156.110	143
156.120	143
156.130	144
156.140	144
156.160	145
156.170	146
156.180	146
156.190	146
156.200	146
156.210	147
156.220	147
156.230	148
156.240	148
156.250	148
156.260	149
156.270	149
156.280	150
156.290	150
156.300	151
156.310	151
156.320	152
156.330	152
156.340	153
156.350	153
156.360	153
156.370	154
156.380	154
156.990	154
157.010	155
157.020	156
157.030	157
157.040	157
157.050	157
157.051	158
157.052	158
157.053	158
157.054	159
157.055	159
157.060	160
157.070	160
157.080	160
157.090	161
157.100	161
157.110	161
157.120	161
157.130	162
157.140	162
157.150	163
157.160	163
157.170	163
157.180	163
157.190	163
157.990	164
158.010	165
158.020	165
158.030	166
158.050	167
158.060	167
158.070	167
158.080	167
158.090	167
158.100	168
158.110	169
158.115	170
158.120	170
158.130	171
158.140	171
158.150	172
158.160	172
158.170	172
158.180	173
158.190	173
158.200	173
158.210	173
158.220	173
158.230	173
158.240	173
158.250	173
158.260	174
158.270	174

Section	Page
158.280	174
158.990	174
159.010	176
159.020	177
159.030	177
159.040	178
159.050	178
159.060	178
159.070	179
159.080	179
159.090	179
159.100	180
159.110	180
159.120	180
159.130	180
159.140	181
159.150	181
159.160	182
159.170	182
159.180	182
159.190	183
159.200	183
159.210	183
159.220	183
159.230	184
159.240	184
159.250	184
159.260	184
159.270	185
159.990	185
160.010	188
160.020	188
160.030	189
160.040	190
160.045	190
160.050	191
160.060	192
160.065	192
160.070	192
160.080	194
160.090	195
160.100	195
160.110	196
160.120	197
160.130	197
160.140	199
160.160	199
160.170	199
160.180	200
160.190	202
160.200	202
160.210	203
160.220	204
160.230	204
160.240	205
160.250	205
160.260	205
160.270	206
160.280	207
160.290	207
160.300	209
160.310	209
160.320	210
160.330	210
160.340	210
160.350	211
160.360	212
160.370	212
160.380	213
160.390	214
160.400	215
160.410	215
160.420	215
160.430	215
160.440	216
160.450	217
160.460	217
160.470	218
160.475	219
160.476	220
160.500	221
160.510	223
160.520	223
160.530	224
160.540	224
160.550	225
160.560	225
160.570	227
160.580	228
160.590	228
160.600	229
160.610	229
160.620	229
160.990	230

Section	Page
161.010	233
161.020	233
161.030	234
161.040	235
161.050	235
161.060	235
161.070	236
161.080	237
161.090	237
161.100	238
161.110	238
161.120	238
161.130	238
161.140	239
161.150	239
161.170	240
161.180	240
161.190	240
161.200	240
161.210	240
161.220	241
161.230	243
161.240	244
161.250	244
161.260	244
161.270	245
161.280	245
161.290	245
161.300	245
161.310	245
161.320	245
161.330	245
161.340	246
161.360	246
161.370	246
161.380	246
161.390	247
161.400	247
161.410	247
161.420	248
161.430	249
161.440	249
161.450	250
161.460	250
161.470	250
161.480	250
161.490	250

Section	Page
161.500	251
161.510	251
161.515	251
161.516	253
161.520	254
161.530	254
161.540	254
161.550	254
161.560	255
161.570	255
161.580	255
161.590	256
161.600	256
161.610	256
161.620	256
161.630	257
161.640	257
161.650	257
161.660	258
161.670	258
161.680	259
161.690	259
161.700	259
161.710	259
161.720	260
161.721	261
161.730	261
161.740	261
161.750	262
161.760	263
161.770	263
161.780	263
161.790	264
161.800	265
161.810	266
161.821	266
161.822	267
161.823	267
161.824	268
161.825	268
161.826	268
161.827	271
161.828	271
161.829	273
161.830	273
161.831	273
161.832	274

Section	Page
161.833	274
161.834	274
161.835	274
161.836	275
161.837	275
161.990	275
162.010	278
162.020	279
162.030	280
162.040	280
162.050	280
162.060	281
162.070	281
162.075	281
162.080	281
162.090	283
162.100	284
162.110	285
162.120	286
162.130	286
162.140	286
162.150	287
162.160	287
162.170	288
162.180	288
162.190	288
162.200	289
162.210	289
162.220	289
162.230	289
162.240	290
162.250	290
162.260	290
162.270	290
162.280	290
162.290	290
162.300	291
162.310	292
162.320	292
162.230	292
162.340	293
162.350	293
162.360	394
162.370	294
162.380	295
162.440	295
162.450	295
162.460	296
162.470	296
162.480	296
162.490	297
162.500	297
162.990	297
163.010	298
163.020	298
163.030	298
163.040	298
163.050	299
163.060	299
163.070	299
163.080	299
163.090	300
163.100	300
164.010	302
164.020	302
164.030	303
164.040	303
164.050	303
164.060	303
164.070	303
164.080	304
164.090	304
164.100	304
164.110	304
164.120	304
164.130	305
164.140	305
164.150	306
164.160	306
164.170	306
164.180	306
164.190	306
164.200	307
164.210	307
164.220	307
164.230	307
164.240	307
164.250	308
164.260	308
164.270	308
164.280	308
164.290	309
164.300	309
164.310	309

Section	Page
164.320	309
164.330	310
164.340	310
164.350	310
164.360	311
164.370	312
164.380	312
164.390	312
164.400	312
164.410	312
164.420	313
164.440	313
164.450	314
164.460	314
164.470	314
164.480	314
164.490	315
164.500	315
164.520	315
165.010	316
165.020	316
165.030	317
165.040	317
165.050	317
165.060	317
165.070	317
165.080	317
165.090	318
165.100	318
165.110	319
165.120	319
165.130	319
165.140	319
165.150	319
165.160	320
165.170	321
165.180	321
165.190	321
165.200	321
165.210	321
165.220	322
165.230	322
165.240	322
165.250	323
165.260	323
165.270	323
165.280	323
165.290	323
165.300	324
165.310	324
166.010	326
166.020	326
166.030	326
166.040	327
166.050	327
166.060	327
166.070	327
166.080	328
166.090	328
166.100	328
166.110	328
166.120	329
166.130	329
166.140	329
166.150	329
166.160	329
166.170	329
166.180	330
167.010	331
167.020	331
167.030	332
167.040	332
167.050	332
167.060	333
167.070	333
167.080	333
167.090	334
167.100	334
167.110	334
167.120	334
167.130	334
167.140	335
167.150	335
167.160	335
167.170	336
167.180	336
167.190	336
167.990	336
171.130	121
171.140	121
180.320	121
186.015	121
186.050	122
186.060	123

Section	Page
186.600	123
189.050	123
189.070	124
189.120	124
189.370	124
189.540	125
189.550	126
200.140	126
207.120	126
212.260	127
227.030	127
247.080	128
258.340	128
262.030	128
273.010	128
273.020	129
273.030	129
273.040	129
273.050	129
273.060	129
273.070	130
273.080	130
273.130	130
280.320	130
280.330	131
280.990	131
281.020	131
287.280	131
287.290	132
322.360	133
337.510	133
339.010	133
339.040	133
339.060	134
339.070	134
339.080	135
339.115	135
339.130	135
363.100	135
363.990	136
424.010	136
427.130	136
432.350	136
433.180	137
433.480	137
433.490	138
438.050	138