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WENDELL P. BUTLER
Superintendent of Public Instruction

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FOREWORD

Section 156.240 of the Kentucky Revised Statutes provides that the Superintendent of Public Instruction shall prepare for publication the complete school laws of Kentucky. This volume is issued in compliance with these provisions in order that school administrators and other interested persons may have available a compilation of the existing school laws.

Section 156.240 further provides that the Superintendent of Public Instruction shall explain the true intent and meaning of the school laws and the published rules and regulations of the State Board of Education. This bulletin forms the basis upon which such interpretation is based. Together with the published regulations of the State Board of Education, it constitutes the legal basis for public education in Kentucky. These statutes and annotated decisions of the Court of Appeals were compiled for the Superintendent of Public Instruction. Included are acts of the 1962 session of the General Assembly and annotations of decisions of the Court of Appeals to and including Volume 346.

As the legal structure of education in Kentucky becomes increasingly complex, proper knowledge of school law acquires a new importance. No publication can substitute for competent, legal advice; however, it is our sincere hope that this volume will enable school administrators and others to acquire a basic understanding of Kentucky school law.

WENDELL P. BUTLER
Superintendent of Public Instruction

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CHAPTER I

KENTUCKY CONSTITUTIONAL PROVISIONS

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§ 5. Right of Religious Freedom. No preference shall ever be given by law to any religious sect, society or denomination; nor to any particular creed, mode of worship or system of ecclesiastical polity; nor shall any person be compelled to attend any place of worship, to contribute to the erection or maintenance of any such place, or to the salary or support of any minister of religion; nor shall any man be compelled to send his child to any school to which

he may be conscientiously opposed; and the civil rights, privileges or capacities of no person shall be taken away, or in any wise diminished or enlarged, on account of his belief or disbelief of any religious tenet, dogma or teaching. No human authority shall, in any case whatever, control or interfere with the rights of conscience.

Nicholas, 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 provisions prohibiting special privilege or requiring tax levies for public purposes only. (November 27, 1945.)

Rawlings vs. Butler, 290 S.W. (2d) 801. That members of religious orders who were engaged to teach in public schools wore religious garb or emblems did not, of itself, violate constitutional guarantee of freedom of religion. (February 10, 1956).

Mosier v. Barren County Board of Health, 308 Ky. 229, 215 S. W. (2d) 907. "Religious freedom" embraces conception of freedom to believe and freedom to act, and the first freedom is absolute but the second freedom is not, and one's conduct remains to regulation for protection of society.

§ 55. When Laws to Take Effect; Emergency Legislation. 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. (January 24, 1936.)

§ 59. Local and Special Legislation. The General Assembly shall not pass local or special acts concerning any of the following subjects or for any of the following purposes, namely:

(15th) To authorize or to regulate the levy, the assessment, or the collection of taxes or to give any indulgence or discharge to any assessor or collector of taxes, or to his sureties.

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

Harlan-Wallins Coal Corp. v. Cawood, 303 Ky. 544, 198 S.W. (2d) 218. The 1956 Act (KRS 160.475) fixing limits on ad valorem school tax levies is a general statute applicable to all fiscal courts and county school districts equally throughout the state, hence it does not violate subsection (51) of Const. 59, inhibiting local or special legislation though the determination of the amount of tax necessary to operate schools of each district is left to the county board of education.

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.

Harrod v. Meigs, 340 S. W. (2d) 601. 1960. Constitution section providing that practice in courts of continuous session may, by general law, be made different from practice of circuit courts held in terms necessarily implied right of legislature to designate certain courts as being courts of continuous session and legislature has right, by either special or general law, to say whether courts of particular district shall be of continuous session; and statute creating judicial district of Franklin County and providing for terms for court thereof was not violative of Constitution, notwithstanding general law providing for continuous sessions in courts of districts consisting of counties having populations of less than 150,000.

Watkins v. State Property and Building Com'n, 342 S. W. (2d) 511. 1961. Restrictions of payments of veterans' bonus to veterans of Spanish American War, World War I, World War II and Korean Conflict, who were state residents for six months prior to entry into active service and were state residents at time electorate approved payment of a bonus, and to maximum amounts of $300 for veteran with service within country and $500 for those with service outside country, were reasonable, and bonus statute was not for such reasons invalid. (Acts 1960, c. 15, Sections 1 et seq., 3 (e) (1-4).

Sims v. Board of Education of Jefferson County, Ky. 290 S. W. (2d) 491. Legislation is not necessary local nor repugnant to the Constitution because it applies to only one class or group of subjects provided that the classification thus made is not unreasonable or arbitrary.

Carr v. Texas Eastern Transmission Corp., 344 S. W. (2d) 619. 1961. If a statute classifies reasonably and operates upon all of the class equally, it is not unconstitutional as special legislation.

1961. The statute providing that an action for injury to livestock by railroad or corporation must be brought within one year is not invalid as special legislation. Ibid.

State Property & Building Comm. v. Hays, 346 S. W. (2d) 3. 1961. Classification of counties for purpose of state's contribution to counties' election expenses according to whether they had acquired voting machines by certain date in compliance with statute was based on reasonable and natural difference, was not discriminatory, and did not render statute invalid.

Kupper v. Fiscal Court of Jefferson County, 346 S. W. (2d) 766. 1961. Act permitting county having at least 300,000 population to impose occupational license taxes was not invalid as special legislation.

1961. Act permitting county having 300,000 population to impose occupational license tax and providing for allowance of credit in amount paid to city situated therein for same privilege was not violative of constitutional requirement of uniformity or of any guaranty under state or federal constitution. Ibid.

§ 91. Constitutional State Officers; Election, Qualifications, Term of Office; Duties; Secretary of State to Record Acts of Governor and Report them to General Assembly. 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.

§ 93. Constitutional State Officers Not to Succeed Themselves; Duties; Fees; Inferior State Officers; Term. 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.

§ 95. Time of Election of Constitutional State Officers. 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.

§ 96. Compensation of Constitutional State Officers. All officers mentioned in section ninety-five shall be paid for their services by salary, and not otherwise.

§ 152. Vacancies; When Filled by Appointment, When by Election; Who to Fill. 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 succeeding 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 a manner as may be provided by law.

Brown v. Rose, 233 Ky. 549, 26 S. W. (2d) 503. One elected to office to fill vacancy on county board of education must qualify within reasonable time thereafter. Sixty days held to be unreasonable time.

County board was within its rights in declaring a vacancy in its membership and appointing person to fill vacancy, where one elected to fill vacancy had not qualified 33 days after receiving certificate of election.

County board of education is not constitutional office. (March 25, 1930.)

§ 155. School Elections Not Governed By Constitution. 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.

§ 157. Maximum Tax Rate for Cities, Counties and Taxing Districts; Indebtedness Exceeding Income Provided for Year Not to be Incurred Without Popular Vote. 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 on the hundred dollars; for all towns or cities having less than fifteen thousand and not less than ten thousand, one dollar on the hundred dollars; for all towns or cities having less than ten thousand, seventy-five cents on the one hundred dollars and for counties and taxing districts, fifty cents 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.

Board of Education of Fayette County v. Board of Education of Lexington Independent School District, 250 S.W. (2d) 1017. Property in county school district at time of favorable vote on question of indebtedness and issuing general obligation bonds, would be liable for the tax regardless of the subsequent transfer of the property to another school district.

Board of Education of Louisville et al. v. City of Louisville et al., 258 S.W. (2d) 707. The provisions of KRS 162.090, making school bonds the obligation of the city in cases where the city school district embraces the city, cannot constitutionally be applied where the city boundaries extend beyond those of the school district; therefore the bonds constitute obligations of the school district, for which only property within the district may be taxed and for which only voters in the district may vote on the question of issuance of bonds.

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.

Dunn v. Allen, et al., 308 Ky. 774, 215 S. W. (2d) 957. Purpose of appropriation act providing for supplementing salaries of teachers in common schools was to benefit teachers and not school board. (December 14, 1948.)

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 funded. (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 Boaard 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.)

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. (October 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. (November 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.)

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.)

Bell v. Board of Education of Barren County Sch. Dist., 343 S. W. (2d) 804. 1961. As used in this section, constitutional provision prohibiting any taxing district or other municipality from becoming indebted to amount exceeding, in any year, "income and revenue" provided for such year, quoted phrase means income and revenue which taxing district has actually provided for in reasonable and good faith anticipation of collecting.

1961. Floating indebtedness, necessarily incurred by county board of education, not in excess of constitutional debt limitation, for legitimate school purposes, because reasonably anticipated franchise tax collections had been greatly reduced by judicial invalidation of method of computing assessed valuation of gas pipeline franchises, constituted valid obligation of county school district which could be funded by bond issue. Ibid.

1961. Annual special tax, in excess of maximum regular ad valorem tax levy authorized by statute, could be levied to amortize principal and interests of funding bonds validly issued by county school district, where maximum regular levy was insufficient. Ibid.

State Property & Buildings Comm. v. Hays, 346 S. W. (2d) 3. 1961. Provision of KRS 118.450 that failure to provide in county budget for payment of rentals for voting machines would result in disapproval of budget regardless of whether county had renewed lease, imposed "debt" and was unconstitutional.

1961. An obligation from which county cannot disengage itself without abandoning an unavoidable function of government is a "debt" within state constitution, Ibid.

1961. Provisions with respect to reserve fund, right of foreclosure and appointment of receiver, and combining of two or more counties in one project, of statute empowering State Property and Buildings Commission to purchase voting machines from proceeds of bonds payable out of revenues to be derived from leasing machines to various counties, were not unconstitutional and did not render statute invalid. Ibid.

§ 158. Maximum Indebtedness of Cities, Counties and Taxing Districts; Indebtedness Authorized or Incurred Prior to Constitution. 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.

Howard, et al. v. Board of Education of Harlan Independent School District, 311 Ky. 130, 223 S. W. (2d) 721. Where a resolution providing for school bond election stated bonds should be callable at any time before maturity within discretion of board of education, board was without authority to omit element of callability in resolution providing for issuance and had no right to sell non-callable bonds. Fact that accomplishment of purpose for which school improvement bonds were voted would cost four times amount of bond issue did not invalidate bonds, total amount of which came within constitutional limits.

City of Louisville, et al. v. Board of Education of Louisville, 302 Ky. 647, 195 S. W. (2d) 291. Sec. 162.090 (2) KRS, valid bonds of boards of education of first and second class cities charge against city. (June 21, 1946.)

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 funded able. (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 in-

terest which it has been unable to pay because of lack of income therefor. (January 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 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.)

Bell v. Board of Education of Barren County School District, 343 S. W. (2d) 804. 1961. Floating indebtedness, necessarily incurred by county board of education, not in excess of constitutional debt limitation, for legitimate school purposes, because reasonably anticipated franchise tax collections had been greatly reduced by judicial invalidation of method of computing assessed valuation of gas pipeline franchises, constituted valid obligation of county school district which could be funded by bond issue.

1961. Constitution requires collection of annual tax to pay principal and interest on valid indebtedness incurred by county, city or other taxing district. Ibid.

§ 165. Incompatible Offices and Employments. 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 militia, shall not be ineligible to hold any other office mentioned in this section.

Adams v. Com. ex rel., Buckman, Atty. Gen., 268 S. W. (2d) 930. Membership on a county board of education was incompatible with the office of county election commissioner and a school board member who had accepted the office of county election commissioner vacated his membership on the board by the acceptance of the latter office.

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 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.)

City of Somerset v. Caylor, 241 S. W. (2d) 990. 1951. One does not relinquish an office which he holds by becoming a candidate for another office.

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

§ 179. Political Subdivision Not to Become Stockholder in Corporation, or Appropriate Money or Lend Credit to Any Person, Except for Roads or State Capitol. 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.)

Louisville Board of Insurance Agents v. Jefferson County Board of Education, 309 S. W. (2d) 40. A school board may insure its property with mutual insurance companies under non-assessable policies which provide that the insured becomes a member of the company with power to vote, without violating constitutional prohibition against incorporated districts from being a stockholder in any company or corporation.

Const. 179. Louisville Board of Insurance Agents v. Jefferson County Board of Education, 309 S. W. (2d) 40. A school board may insure its property with mutual insurance companies under nonassessable policies which provide that insured becomes a member of the company with power to vote without violating constitutional prohibition against incorporate districts from becoming a stockholder in a company or corporation.

Miller v. City of Owensboro, 343 S. W. (2d) 398. ..1961. Issuance of revenue bonds to finance public project, even such project as erection of industrial building to be rented to private industry, does not constitute lending of credit in violation of Constitution.

1961. Where primary purpose of city's new generating station was to provide adequate facilities to meet present and anticipated energy needs of city and its inhabitants, contract to sell surplus energy from station to private utility would not constitute a lending of credit of city in violation of Constitution. Ibid.

§ 180. Poll Tax; Act or Ordinance Levying Any Tax Must Specify Purpose, for Which Alone Money May Be Used. 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.

Sims v. Board of Education of Jefferson County, Ky., 290 S. W. (2d) 491. Bill authorizing Board of Education in any county containing a city of the first class to impose occupational license fees on earnings of individuals and profits of business is not violative of the Constitution requiring sums produced by taxation for school education to be used for no other purpose on the ground that the act calls for an election before the tax can be imposed and provides that the expenses thereof shall be met out of school funds.

Barren County Board of Education v. Edmunds, 252 S. W. (2d) 882. Trial court required to fix quantity of sheriff's fee for collecting school taxes at figure representing value of services rendered.

Ewing, et al. v. Peak, et al., 266 S. W. (2d) 300. Where both the school board and county fiscal court proclaimed resolutions informing voters that the money to be derived from the proposed special school building tax was to be used to acquire a site for and the construction of a school building adequate to accommodate the pupil population in the locality in the grades 1 to 12, and to provide equipment for the school building, the resolution did not amount to a contract by the school board to conduct a high school in the new building, and a later decision to use the new building for grades 1 to 8 was within the school board's powers and did not constitute a diversion of voted money.

Board of Education of Madison County, et al. v. Wagners, Sheriff-Tax Collector, et al., 239 S. W. (2d) 48. Under the constitutional provisions, the school fund which may not be diverted from other than school purposes is only the net amount for school taxes produced after deducting the fee chargeable to its collection as long as the fee reasonably approximates the cost of making the collection, but if the fee percentage produces a substantial sum applied to a use other than paying the reasonable cost of collections then a part of the school tax is appropriated to something other than "school purposes" in violation of the Constitution. (February 16, 1951.)

Board of Education of Spencer County et al. v. Spencer County Levee, Flood Control and Drainage Dist. No. 1, by its Board of Com'rs, et al., 230 S. W. (2d) 81. Board of education could not be required to pay assessment by county flood and drainage district to help build a flood wall notwithstanding board and children in its district would benefit thereby since such expenditure would be for "other than educational purpose" prohibited by Constitution. (May 16, 1950.)

Dickson, Sheriff, et al. v. Jefferson County Board of Education et al., 311 Ky. 781. The statute providing four per cent fee for collection of school taxes violates constitutional provisions against diverting taxes or school funds, where fee of one per cent would be sufficient and additional three per cent would create excess of more than $50,000 annually. (October 18, 1949.) (Rehearing denied January 31, 1950.)

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.)

§ 183. General Assembly to Provide for School System. The General Assembly shall, by appropriate legislation, provide for an efficient system of common schools throughout the State. (See Sec. 158.010 KRS.)

Board of Education of Kenton Co. v. Mescher, 310 Ky. 453, 220 S. W. (2d) 1016. School districts created in accordance with the provision of Const. 183 are creatures of the Legislature and the Legislature has power to alter them or even do away with them entirely.

Hodgkin, Superintendent of Public Instruction, et al. v. Board for Louisville & Jefferson County Children's Home, 242 S. W. (2d) 1008. Common school is taught in district laid out by authority of school law, under control of trustees elected under these laws. A school operated in conjunction with the Louisville and Jefferson County Children's Home cannot be a common school.

Law authorizing distribution of funds to the Louisville and Jefferson County Children's Home is unconstitutional and is not within the scope of the intention of Sections 183 to 186 of the Constitution. (October 19, 1951.)

Board of Education of Louisville v. Society of Alumni of Louisville Male High School, Inc., 239 S. W. (2d) 931. Provision in deed of property for school purposes by which the Louisville School Board agreed to hold the property for exclusive use of white male students was void as a ceding away by the school board of its governmental powers or a restriction of the discretion by the school board and as contrary to public policy. (March 16, 1951.)

Jefferson County Board of Education, et al. v. Goheen, 306 Ky. 439, 207 S. W. (2d) 567. Kentucky Children's Home is home of children committed to it. Jefferson County Board of Education required to furnish educational facilities for them because the home through its officers stood in loco parentis to the children. (April 29, 1947.)

§ 184. Common School Fund; What Constitutes; Use; Vote on Tax for Education Other Than in Common Schools. 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 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 of the stock of the Bank of Kentucky, 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 fund, 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.)

Robertson v. City of Danville, 291 S. W. (2d) 816. Provisions of KRS 107.010 to 107.220 providing for the financing of public improvement projects by levying annual assessments on the basis of the assessed values of the benefited properties, does not, because of the provisions thereof that public school properties shall be assessed for special improvement benefits and that levies against it should be paid from the State Treasury out of moneys not otherwise appropriated, violate section of the Constitution providing that any sum which may be produced by taxation or otherwise for purpose of common school education shall be appropriated to the common schools and to no other purpose.

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.)

Dickson, Sheriff, et al. v. Jefferson County Board of Education, et al., 311 Ky. 781. The statute providing four per cent fee for collection of school taxes violates constitutional provisions against diverting taxes or school funds, where fee of one per cent would be sufficient and additional three per cent would create excess of more than $50,000 annually. (October 18, 1949.) (Rehearing denied January 31, 1950.)

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 term "education," "common school purpose," and "common school system" embrace recreational training. (June 23, 1944.)

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, provides that the school board may take possession for benefit of common schools.

§ 185. Interest on School Fund; Investment. 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 Commission 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. 157.010, KRS.)

§ 186. Distribution and Use 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 of the public school fund among the school districts and its use for public school purposes. (1954)

Hodgkin, Superintendent of Public Instruction, et al. v. Board for Louisville & Jefferson County Children's Home, 242 S. W. (2d) 1008.

Common school is school taught in district laid out by authority of school law, under control of trustees elected under these laws. A school operated in conjunction with the Louisville and Jefferson County Children's Home cannot be a common school.

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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 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 schools.

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.

Board of Education of Madison County v. Wagers, 239 S. W. (2d) 48. 1951. The courts will jealously guard school funds from diversion even for laudable purposes.

Hogan v. Glasscock, 324 S. W. 2d 815. Despite absence of a specific statutory authority for school board to employ an attorney, members of county board of education had implied authority to employ an attorney to represent them in actions which were defended by them for the protection of the board's corporate action and decisions. Members had implied power to expend school funds for attorney's fees and court costs in defending the actions. The Legislature has authorized local boards of education to control and manage the affairs of school districts and to promote public education in such ways as it deems necessary and proper. The expenditures of funds involved in this case did not violate Section 186 of the Constitution. The board was impliedly authorized by the Legislature to make them in connection with the promotion of public education.

Boards are authorized to employ an accountant to make complete audit of school records. Although there is no specific statutory authorization for employing an accountant, the school board, like a municipality or any other governmental agency created by the Legislature, possesses not only the powers specifically conferred but also such implied powers as are reasonably inferred from the express powers and the objects to be attained by its creation.

Board of Education of Madison County v. Wagers, 239, S. W. (2d) 48. The courts will jealously guard school funds from diversion even for laudable purposes.

§ 187. White and Colored to Share Fund Without Distinction; Separate Schools. In distributing the school fund no distinction

shall be made on account of race or color, and separate schools for white and colered children shall be maintained.

Brown v. Board of Education, Topeka, Kansas. 75 S. Ct. 753.349 U. S. 294. This decision renders the aforesaid section null and void.

§ 188. Refund of Federal Direct Tax Part of School Fund; Irredeemable Bond. 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.

§ 189. School Money Not to be Used for Church, Sectarian or Denominational School. 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.)

Rawlings v. Butler, 290 S. W. (2d) 801. An employe of state or any of its subdivisions may, without violation of constitutional provision prohibiting use of tax money for aid of any church, sectarian or denominational school, contribute part or all of salary to a religious body. Rental of buildings by county board of education from a church would not violate the Constitution.

Wooley v. Spaulding, 293 S. W. (2d) 563. The fundamental mandate of the Constitution and statutes is that there shall be equality and that all public schools shall be nonpartisan and nonsectarian. Board could not permit distribution of sectarian literature or could not recognize religious holidays.

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.

§ 228. Oath of Officers and Attorneys. 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 this 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.

§ 237. Federal Office Incompatible With State Office. 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 of 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).

§ 246. Maximum Limit on Compensation of Public Officers. No public officer or employe except the Governor, shall receive as compensation per annum for official services, exclusive of the compensation of legally authorized deputies and assistants which shall be fixed and provided for by law, but inclusive of allowance for living expenses, if any, as may be fixed and provided for by law, any amount in excess of the following sums: Officers whose jurisdiction or duties are co-extensive with the Commonwealth, the mayor of any city of the first class, and Judges and Commissioners of the Court of Appeals, twelve thousand dollars; Circuit Judges, eight thousand four hundred dollars; all other public officers, seven thousand two hundred dollars. Compensation within the limits of this amendment may be authorized by the General Assembly to be paid, but not retroactively, to public officers in office at the time of its adoption, or who are elected at the election at which this amendment is adopted. Nothing in this amendment shall permit any officer to receive, for the year 1949, any compensation in excess of the limit in force prior to the adoption of this amendment. (1948.)

Schranx v. Board of Education of Louisville et al., 307 Ky. 590, 211 S. W. (2d) 861. Principals and supervisors employed by board of education of Louisville are "employes" and not "public officers" within constitutional prohibition against paying public officers, except the Governor, more than $5,000 per annum. (May 28, 1948.)

Weber v. True et al., 304 Ky. 681, 202 S. W. (2d) 174. In counties where sheriff is compensated by fees, sheriff is not entitled to charge 4% fee enacted by 1946 session of Legislature since this would increase his compensation during present tenure of office. (May 6, 1947.)

Board of Education of Graves County v. De Weese, 343 S. W. (2d) 598. 1961. Words "or employe," as they appear in section of constitution to effect that no public officer or employe, except governor, shall receive as compensation any amount in excess of certain stated sums, are without legal effect.

1961. The word "officers" as used in constitutional sections prohibiting change in compensation of public officers after election or appointment and establishing maximum limit on compensation of public officers should be restricted to officers directly named and designated in text of Constitution. Ibid.

1961. Judicial notice was taken that an adjustment of compensation attaching to public office, through an amendment or repeal of constitutional provision establishing maximum limit on compensation of public officers, was an urgent requirement because economic conditions had reduced value of compensation provided for to point that qualified men and women without independent means could not afford to offer their services. Ibid.

1961. Superintendent of schools was not an "officer" within constitutional sections prohibiting change in compensation of officers after election or appointment and establishing maximum limit imposed by statute on officers and employes of local government units did not apply to superintendent and addition of $3,000 to his compensation for services as secretary of board of education was within authority of board. Ibid.

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CHAPTER II

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424.110 Definitions.
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432.350 Giving and taking bribes; limitation of action; exemption.

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433.180 Stealing from public building; robbing person in house; housebreaking.
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433.490 Fines for trespass on or injury to public property of the state or a county.

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438.050 Smoking cigarettes 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 school house.

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

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] **Distribution of Work Within Agency or Department.**

The work of each agency, or department where the department is not a part of an agency, shall be distributed among the boards, commissions, divisions, institutions and administrative bodies constituting the unit. An agency administrator, or a department head in those cases where the department is not a part of an agency, may submit a recommendation that the Governor by executive order establish, abolish or change the name of subordinate units, or transfer the functions, staff and funds from one unit to another within the agency or department. Such recommendations or proposals shall be submitted to the Commissioner of Finance who shall transmit them along with his comments and recommendations to the Governor. (1962, c. 106, Art. I, § 6, effective July 1, 1962).

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.

FILING ADMINISTRATIVE REGULATIONS

13.080 Definitions and Construction. As used in KRS 13.080 to 13.125, unless the context otherwise requires: (1) "State agency" includes any officer, department, bureau, division, board, authority, agency, commission or institution of this state except the judicial and the legislative branches.

(2) "Regulation" includes every rule or regulation made by any state agency, except a rule, regulation or order which:

(a) Relates only to the organization or internal management of the state agency;

(b) Is directed to a specifically named person or to a group of persons, and does not apply generally throughout the state;

(c) Is duly served by the state agency in the manner authorized by law upon the person or persons designated therein as the party or parties legally affected;

(d) Establishes or fixes rates or tariffs; or

(e) Relates to the use of public works, including streets and highways, under the jurisdiction of any state agency when the effect of such rule, regulation or order is indicated to the public by means of signs or signals.

(3) Nothing in KRS 13.080 to 13.125 shall prevent any state agency, in its discretion and subject to the approval of the Legislative Research Commission, from filing, and the Legislative Research Commission from distributing in accordance with KRS 13.080 to 13.125, any rates, tariffs or other documents not required by KRS 13.080 to 13.125 to be filed.

(4) Compliance with the provisions of KRS 13.080 to 13.125 does not dispense with the requirements of any other law necessary to make the regulation effective. (1952, c. 63, § 1)

13.081 Agencies may adopt regulations; effect; limitation. Unless otherwise provided by law each agency may adopt reasonable regulations to implement administration of the functions assigned to it by law, and shall adopt such regulations as are necessary to the proper execution of those functions. If prepared and filed in accordance with the provisions of Chapter 13 of the Kentucky Revised Statutes, such regulations shall have the force of law and be enforced by all law enforcement officers. In every instance the power to adopt regulations to implement a particular function is limited by the terms of the grant of authority under which the function was assigned. (1956, c. 97, § 2)

Preston v. Clements, 313 Ky. 479, 232 S. W. (2d) 85. 1950. The presumption is that administrative bodies will always act within the limits of their authority.

1950. A statute is complete when nothing with respect to a determination as to what the law is, is left to the administrative agency and its provisions are sufficiently clear, definite and certain to enable the agency to know its rights and obligations. Ibid.

Reeves v. Jefferson County, 245 S. W. (2d) 606. 1952. Administrative agencies may not be given unbridled power.

1952. Courts may not substitute their judgment or notions of expediency and fairness or wisdom for those which have guided administrative agencies entrusted with formulation and execution of state policy. Ibid.

1952. Administrative determinations of fact or determinations made in the proper exercise of discretionary or administrative, legislative, executive, or judicial functions, or of exclusive or primary jurisdiction, vested by the legislature in administrative authorities are generally conclusive upon the courts. Ibid.

13.085 Regulations of State Agencies Must be Filed to be Effective; Requisites of Filing. (1) No regulation made by any state agency after June 19, 1952 shall become effective until thirty days after an original and two duplicate copies of the regulation are filed in the office of the Legislative Research Commission, except

that when the state agency finds that an emergency exists, and such finding is concurred in by the Governor, by written endorsement upon the original regulation, a regulation may become effective immediately upon being filed in the office of the Legislative Research Commission.

(2) Each regulation shall include a citation of the authority pursuant to which it, or any part of it, was adopted.

(3) The Legislative Research Commission shall cause to be endorsed on the original and duplicate copies of each regulation filed the time and date of the filing thereof, and shall maintain a file of such regulations for public inspection, with suitable indexes. (1952, c. 63, § 2)

13.090 Functions of Legislative Research Commission. (1) The Legislative Research Commission shall prescribe rules governing the manner and form in which regulations shall be prepared, to the end that all regulations shall be prepared in a uniform manner. The commission may refuse to accept for filing any regulation that does not conform to the rules.

(2) The Legislative Research Commission shall furnish advice and assistance to all state agencies in the preparation of their regulations, and in revising, codifying and editing existing or new regulations. (1952, c. 63, § 3)

13.096 Publication and Distribution of Regulations; Official State Publication; Subscription Fees. (1) The Legislative Research Commission shall compile, publish and distribute the regulations filed by state agencies in a manner which will accommodate changes in regulations and allow distribution of any topical or organizational part of the regulations as well as all of them. This compilation shall be known as the Kentucky Administrative Regulations Service and shall constitute the official state publication of administrative regulations.

(2) The Commission shall prescribe reasonable fees for subscription to the Kentucky Administrative Regulations Service. All fees paid to the Commission for this service shall be placed in the State Treasury to the credit of a revolving, trust or agency fund account, for use by the Legislative Research Commission in carrying out the provisions of this section. (1956, 1st ex. s., c. 6, § 1)

13.100 Effect of Commission's File Stamp on Regulation or Publication of Regulation. The Legislative Research Commission's authenticated file stamp on a rule or regulation, or publication of a rule or regulation in the Kentucky Administrative Regulations Service shall raise a rebuttable presumption that the rule or regulation was adopted and filed in compliance with all requirements necessary to make it effective. (1952, c. 63, § 5; 1956, 1st ex. s., c. 6, § 3)

13.105 Judicial Notice. The courts shall take judicial notice of any regulation duly filed under the provisions of KRS 13.080 to 13.125, after the regulation has become effective. (1952, c. 63, § 6)

13.115 File of Ineffective Regulations to be Kept. When any regulation filed with the Legislative Research Commission expires by its own terms, or is superseded or revoked, the commission shall cause the same to be placed in a "dead" file. (1952, c. 63, § 8)

13.125 Notice and Hearings on Proposed Regulation. Where practicable to do so, state agencies are encouraged to give notice, to interested persons, of proposed regulations, and conduct hearings upon the proposed regulations prior to adoption thereof. (1952, c. 63, § 10)

CREDIT FOR ACTIVE SERVICE

38.470 Student's Credit When Called Into Active Service. When the Kentucky National Guard or Kentucky Active Militia is called into active state 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. (1954, c. 98, § 25)

INTEREST-BEARING WARRANTS

41.180 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, § § 1, 3, 4)

SPECIAL ACCOUNTS—PRIVATE

41.290 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)

INDUSTRIES FOR BLIND; STATE PURCHASE OF PRODUCTS

42.075 Preferred Status of Products of the Blind. Where the products of the blind produced under the supervision and direction of the Kentucky Industries for the Blind meet the requirements of state offices, departments, institutions and agencies of the Commonwealth as to quality, quantity and price, such products shall have preference in all purchases by and for such state offices, departments, institutions and agencies. The price charged for the products shall, in no case, exceed the price quoted to other consumers. The Bureau of Rehabilitation Services in the Department of Education shall, from time to time, cause to be made available to the Division of Purchases, lists of the products of the Kentucky Industries of the Blind. (1958, c. 86; effective June 19, 1958)

MILEAGE ALLOWANCE

44.060 Expense of Operating Vehicle Used by State Officer, Employe or Agent. When any state officer, member of a state board or commission, or any subordinate officer, agent or employe thereof is authorized by law to and does incur, in the discharge of his official duties, any expense incident to traveling in his own motor vehicle, the amount allowed for such expense shall be fixed by the Commissioner of Finance not to exceed eight cents per mile over the nearest traveled route over which he has traveled, which sum shall include depreciation and investment charges incident to the operation of the motor vehicle. (1958, c. 85)

EMPLOYES' EXPENSE ACCOUNTS

45.180 Expense Accounts of State Officers and Employes; Contracts for Services; Assignment of Claims; Regulations. (1) Except as otherwise provided by law, each state officer or employe who is authorized by law to receive, from corporations or from the State Treasury or any fund appropriated out of the State Treasury, his traveling or other expenses incident to the discharge of his official duties, shall submit to the Department of Finance an itemized statement of such expenses, accompanied by a receipt, on a blank furnished by the Department of Finance, for each item of expense in excess of two dollars, before the department shall audit or pay such expenses.

(2) The Department of Finance may issue rules and regulations to permit state agencies and institutions to contract with airlines, railroads, hotels or other companies for services to a group of their employes while on official travel status. Such expenses are to be submitted to the Department of Finance on forms prescribed by the Department of Finance before the department shall audit or pay such expenses.

(3) The Department of Finance may issue rules and regulations to permit state officers or employes to assign their claim for reimbursement of travel expenses to airline, railroad, hotel, or other companies in payment of services rendered as provided for in subsection (2) of this section and as shown on the itemized statement and receipts as provided for in subsection (1) of this section, which statement and receipts shall indicate that such company has extended credit to said officer or employe in the name of the state and incident to the discharge of his official duties.

(4) Each state officer or employe who by reason of the duties assigned to his office, is required to be at the state capital for the majority of the time, or who has an office located at the state capital, shall not be permitted to charge for expenses except from the state capital to the place where the business he is transacting is to be transacted, and from that place back to the state capital, and each officer or employe who is assigned to duty at some place other than the state capital shall only be permitted to charge to the state such expenses as are incurred in going from that place to the place where the business is transacted, and returning. Expenses in going from the state capital or the place where the officer or employe is assigned to duty to the officer's or employe's real place of residence, or in return therefrom, shall not be allowed unless it is shown that it was necessary for him to make the trip in the discharge of business for the state. (1950, c. 56; 1954, c. 241, § 1)

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.

STATE PROPERTY AND BUILDINGS COMMISSION

56.440 Definitions. As used in this chapter, unless the context otherwise requires:

(1) "Commission" means the State Property and Buildings Commission.

(2) "Real estate" includes lands together with improvements thereon and appurtenances thereto.

(3) "Building" includes any structure or improvement upon real estate of a permanent nature; and additionally includes any sites, structures, equipment, machinery or devices for the purpose of establishing, developing or furthering television in aid of education or in aid of any other proper public functions, whether or not the same would otherwise be legally defined as buildings.

(4) "Building project" includes the construction, reconstruction and structural maintenance of buildings, the installation of utility services, including roads and sewers, and the purchase and installation of equipment, facilities and furnishings of a permanent nature for buildings, and for television purposes as referred to in sub-section (3) of this section.

(5) "State agency" means any state officer, department, board, commission, institution, division or independent agency as defined in Chapter 12 of the Kentucky Revised Statutes.

(6) "Department" means the Department of Finance. (1962, c. 15, § 1, effective February 19, 1962).

56.450 State Property and Buildings Commission; Members; Powers; Issuance of Revenue Bonds; Alternates. (1) There is recognized, as an independent agency of the state within the meaning of Chapter 12 of the Kentucky Revised Statutes, a State Property and Buildings Commission composed of the Governor, who shall be chairman thereof, the Lieutenant Governor, the Attorney General, the Commissioner of Finance and the Commissioner of Revenue, or their alternates as authorized and permitted in subsection (5) of this section.

(2) No member of the commission shall receive any salary, fee or other remuneration for his services as a member of the commission but each member shall be entitled to be reimbursed for his ordinary traveling expenses, including meals and lodging, incurred in the performance of his duties.

(3) The commission constitutes a public body corporate with perpetual succession and power in its name to contract and be contracted with, sue and be sued, adopt bylaws, have and use a corporate seal, and exercise all of the powers granted to private corporations generally in the Kentucky Revised Statutes, Chapter 271, except as the same may be inconsistent with KRS 56.440 to 56.550.

(4) Subject to the provisions of KRS 56.550, but notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, all revenue bonds issued by state agencies except those bonds issued by the State Colleges, the University, or The Turnpike Authority of Kentucky, shall be issued under the provisions of this chapter; provided further, that as an additional and alternative method for the issuance of revenue bonds under the provisions of this chapter, upon application of any state agency and approval by the commission, the commission acting for and on behalf of said state agency may issue revenue bonds in its own name in accordance with the terms and provisions of KRS Chapter 58 secured by and payable solely from all or any part of the revenues of said state agency as may be specified and provided in such approved application, and any covenants and undertakings of said state agency in such approved application wth regard to the production of such revenues and the use, application or disposition there of may be enforced by the holders of any such revenue bonds or by any trustee for such bondholders.

(5) (a) Each member of the commission is hereby authorized and empowered to designate by an instrument in writing over his signature and filed with the secretary as a public record of the commission, an alternate with full authority to attend in the absence of the appointiing member for any reason, any properly convened meeting of the commission and to participate in the consideration of, and voting upon, business and transactions of the commission. Any such designation of an alternate may, in the discretion of the appointing member, be limited upon the face of the appointing instrument, to be effective only for a designated meeting or only for specified business; or the same may be shown on the

face of the appointing instrument to be on a continuing basis, whenever the appointing member is unable to attend, but always subject to revocation by the appointing member in an instrument of like formality, similarly filed with the secretary as a public record of the commission. Any party transacting business with the commission, or materially affected thereby, shall be entitled to accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time of designation, the scope thereof, and if of a continuing nature whether the same has been revoked, and when; and such joint certificate shall be made and delivered, to any such party within a reasonable time after written request is made therefor with acceptable identifications of the business or transaction referred, and of the requesting party's interest therein. Each alternate shall be a person on the staff of the appointing member, or in the employ of his agency or department of the government of the Commonwealth, as the case may be.

(b) Any three members of the commission shall constitute a quorum and shall by majority vote be authorized to transact any and all business of the commission. One alternate may be substituted for a member in order to establish a quorum provided that no business is transacted beyond the scope of authority of such alternate. (1949, ex. s, c. 11 § 2; 1960, c. 68; 1962, c. 15, § 2, effective February 19, 1962).

56.520 Revenue Bonds. (1) The commission is authorized and empowered to issue and sell revenue or other authorized bonds, in carrying out the provisions of this chapter, in such denominations and in such amount or amounts, as may be deemed to be for the best interest of the Commonwealth, for any of the following purposes:

(a) To acquire real estate;

(b) To pay all or any part of the expense or cost of or incidental to a building project;

(c) To defray the cost of plans, specifications, blue prints, architectural fees and other expenses authorized to be incurred under the terms of KRS Chapter 56.

(2) Any revenue bonds so issued shall bear interest at a rate not exceeding five percent per annum, payable semi-annually, and shall become due and payable not more than forty years from the

date of issuance. The payment of the bonds, together with the interest thereon, may be secured by a pledge and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Neither the payment of any bond, nor the interest thereon, issued under the authority of KRS Chapter 56, shall constitute an indebtedness of the Commonwealth of Kentucky, nor shall any bond or interest thereon be payable out of any fund except such funds as may be derived from rentals or other revenues derived from the operation of the properties or from such revenues as may have been, or may be, available for such purpose, or purposes, by law.

(3) All bonds which may be issued by the commission under the provisions of KRS Chapter 56, shall be sold as provided in KRS 42.070 and after newspaper advertising conforming to the requirements of KRS Chapter 424.

(4) All competitive bids for the sale of such revenue bonds shall be opened and read publicly by the Commissioner of Finance or his representative at a designated place, day and hour, all of which shall be announced in the advertising made relative thereto.

(5) In the event the commission issues and sells bonds for a building project as authorized by KRS Chapter 56, insurance, including fire and windstorm, casualty, catastrophe, use and occupancy and such other insurance as the commission may deem advisable, shall be carried in connection with the building project, and it may so obligate and bind itself in a trust indenture securing the payment of such bonds. Any such insurance shall be paid for out of funds available for the project.

(6) All money from the sale of bonds shall be deposited in the State Treasury and shall be credited to a special account to be designated as directed by the department, and no part thereof shall be withdrawn from the State Treasury, except for the purposes authorized by KRS Chapter 56, together with the cost incidental to the issuing and selling of such bonds and other expenses directly related thereto. The commission may provide in any trust indenture securing bonds for additional terms and conditions thereof, or for other restrictions not in conflict with KRS Chapter 56. (1962, c. 15, § 3, effective February 19, 1962).

56.550 KRS 56.440 to 56.540 not applicable to certain projects. (1) Nothing in KRS 56.440 to 56.540 shall be construed to apply to

the construction of roads or bridges or the acquisition of rights of way or real estate in connection therewith now under the jurisdiction of the Department of Highways or The Turnpike Authority of Kentucky, or for any other expenditure made from the State Road Fund or by said Turnpike Authority.

(2) Nothing in KRS 56.440 to 56.540 shall be construed to apply to school districts, or to affect the rights, powers and duties of the governing authorities of such districts; provided, however, that the acquisition of sites, and the acquisition, purchase, construction, leasing and operation of television facilities as an aid to education or as an aid to any other proper public function, shall be deemed to be matters of statewide jurisdiction and interest, and any or all of such activities on the part of the commission shall not be deemed to constitute encroachment upon the authority of any school district. (1962, c. 15, § 4, effective February 19, 1962).

MAY DO OWN PRINTING

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 in current contracts by KRS 57.070, except for educational publications based on research, the rates for which shall be computed on the basis of actual cost. (1946, c. 136, § 2; 1952, c. 170, § 1)

BIENNIAL REPORT

57.140 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 biennial 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. (1950, c. 58)

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, 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.

INCOMPATIBLE OFFICES

61.080 Incompatible Offices. (1) No person shall, at the same time, be a state officer, a deputy state officer or a member of the General Assembly, and an officer of any county, city or other municipality, or an employe thereof.

(2) The offices of justice of the peace, county judge, surveyor, sheriff, deputy sheriff, coroner, constable, jailer and clerk or deputy clerk of a court, shall be incompatible, the one with any of the others. The office of county judge and county school superintendent are incompatible.

(3) No person shall, at the same time, fill a county office and a municipal office.

(4) No person shall, at the same time, fill two municipal offices, either in the same or different municipalities.

(5) The following offices shall be incompatible with any other public office:

(a) Member of the Public Service Commission of Kentucky;

(b) Member of the Workmen's Compensation Board;

(c) Commissioner of the fiscal court in counties containing a city of the first class;

(d) County indexer;

(e) Member of the legislative body of cities of the first class;

(f) Mayor and member of the legislative body in cities of the second class; and

(g) Mayor and member of council in cities of the fourth class.

(6) No office in the Kentucky Active Militia shall be incompatible with any civil office in the Commonwealth, either state, county, district or city. (Impliedly amended by 1942, c. 4, § 13)

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.

REINSTATEMENT OF WAR VETERANS

61.370 Reinstatment of War Veterans in Public Position or Employment Held Before Entering Service. (1) Any person (other than a person appointed for a definite term and those persons who received a dishonorable discharge) who has heretofore entered, or shall hereafter enter, service in the Armed Forces of the United States in the war with foreign powers which began on December 8, 1941, or in the Korean conflict which began on June 25, 1950, and who, at the time of entering such service, was employed in a position in any agency or department of the state government, or any political subdivision thereof, shall, upon being discharged from such service, be forthwith reemployed for a period of not less than one year at the same status in the same position in which he was employed at the time he entered service, or if such position no longer exists, in an existing or created position of equal class and compensation rate. Salary increments which would have normally accrued if the veteran had remained in the state service shall be added to the salary he was receiving at the time he entered service in the Armed Forces. If more than one person has entered the Armed Forces from the same position in any agency or department of the state Government, or any political subdivision thereof, and each of such persons desires reemployment in such position, the one with seniority in time of service shall be reemployed in such position and the other shall be employed in the order of their entering military service.

(2) Any person entitled to reemployment under the provisions of this section who, upon application, is not reemployed as required by this section shall have a civil action for damages against the officer having the power of appointment to such position, and said action shall be brought in the courts of the county where the office of the person violating this section is located. In addition to the civil liability, any officer having the power of appointment to a position in which any person is entitled to reemployment under this section, who fails, upon due application, to make such reemployment, shall be fined not less than one hundred dollars nor more than

five hundred dollars, in the courts of the county where the offense is committed.

(3) This section is not intended to require the reemployment of any person unless such person makes application for reemployment within three months after his discharge from service in the Armed Forces nor unless such person is physically able to perform the duties of the position in which he seeks reemployment.

(4) "Person" as used in this section shall mean and include all employes other than heads of departments and those persons employed in an emergency, provisional temporary or probational status at the time of entering the military service. (1946, c. 144; 1954, c. 84)

Reinstatement of teacher after military service, KRS 161.740.

61.394 State Employe's Leave of Absence; Pay. All officers and employes of this state, or of any department or agency thereof who are members of the National Guard or of any reserve component of the armed forces of the United States, or of the reserve corps of the United States Public Health Service, shall be entitled to leave of absence from their respective duties, without loss of time, pay, regular leave, impairment of efficiency rating, or of any other rights or benefits to which they are entitled, while in the performance of duty or training in the service of this state or of the United States under competent orders, for a period in any calendar year not to exceed that specified in this section. Such officers or employes while on such leave shall be paid their salaries or compensations for a period or periods not exceeding fifteen calendar days or ten working days if the employe's position is based upon a five day work week; twelve days if the employe's position is based upon a six day work week; fifteen days if the employe's position is based upon a seven day work week, in any one calendar year. (1962, c. 51, § 1, effective June 14, 1962).

61.396 Employes of Political Subdivisions Eligible. All officers and employe's of counties, municipalities, school districts or other political subdivisions of the state who are members of the National Guard or of any reserve component of the armed forces of the United States, including the United States Public Health Service, may be granted annual military leave by their respective employers as provided in KRS 61.394. (1962, c. 51, § 2, effective June 14, 1962).

SOCIAL SECURITY FOR PUBLIC EMPLOYES

61.410 Declaration of Policy. (1) It is hereby declared to be the policy of the General Assembly to extend the Federal Old-Age, Survivors and Disability Insurance coverage to all public employes regardless of whether such employes are occupying positions which are covered by a retirement system; provided, however, that no employe occupying a position to which KRS 161.220 to 161.710 are applicable shall be held to fall within the class of persons sought to be affected by this statement of policy except for employes of the state colleges and public junior colleges.

(2) It is also the policy of the General Assembly that the protection afforded public employes by membership in a retirement system or by the right to receive periodic benefits under such a retirement system will not be impaired as a result of any agreement made between the Commonwealth and the Secretary pursuant to KRS 61.410 to 61.500.

(3) The General Assembly hereby ratifies the extension of Federal Old-Age, Survivors and Disability Insurance coverage to public employes in positions covered by a retirement system prior to June 14, 1962, provided that the procedures specified by Kentucky Acts, 1956, Chapter 32, Section 3(6) were substantially followed. (1951, ex. s., c. 3, § 1; 1956, c. 32, § 1; 1962, c. 12, § 1)

61.420 Definitions for KRS 61.410 to 61.500. For the purposes of KRS 61.410 to 61.500:

(1) "Wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were for "employment" within the meaning of Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that Act;

(2) "Employment" means any service performed by an employe in the employ of the Commonwealth, a political subdivision, or an interstate instrumentality, for such employer, except (a) service of an emergency nature, (b) service which in the absence of an agreement entered into under KRS 61.410 to 61.500 would constitute "employment" as defined in the Social Security Act, or (c) service which under the Social Security Act may not be included in any agreement between the Commonwealth and Secretary entered into under KRS 61.410 to 61.500; provided, however,

that service, the compensation for which is on a fee basis, may be excluded in any plan approved under KRS 61.410 to 61.500, and provided also, that service in any class or classes of positions, the exclusion of which is permitted under the Social Security Act, may be excluded in any plan approved under KRS 61.460;

(3) "Employe" means any person in the service of the Commonwealth, a political subdivision or an interstate instrumentality of which the Commonwealth is a principal and shall include all persons designated officers including those which are elected and those which are appointed.

(4) "State Agency" means the Division of Personnel Security in the Department of Economic Security;

(5) "Political Subdivision," in addition to counties, municipal corporations and school districts, includes instrumentalities of the Commonwealth, of one or more of its political subdivisions, or of the Commonwealth and one or more of its political subdivisions, and any other governmental unit thereof;

(6) "Social Security Act" means the Act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the "Social Security Act," including regulations and requirements issued pursuant thereto, as such act has been and may from time to time be amended;

(7) "Federal Insurance Contributions Act" means subchapter A of Chapter 9 of the Federal Internal Revenue Code and all amendments thereto;

(8) "Secretary" means the Secretary of Health, Education and Welfare and includes any individual to whom the Secretary may delegate any of his functions under the Social Security Act; and, which with respect to any transactions regarding insurance coverage occurring prior to April 11, 1953, includes the Federal Security Administrator and any individual to whom he may have delegated any of his functions under the Social Security Act;

(9) "Insurance Coverage" means coverage by the Old-Age, Survivors and Disability Insurance provisions of the Social Security Act. (1951, ex. s., c. 3, § 2; subsection (9) added by 1956, c. 32, § 2; 1958, c. 135, § 1; 1962, c. 12, § 2)

61.430 Federal-State Agreement. Consistent with the terms and conditions of KRS 61.410 to 61.490, the state agency, with the approval of the Governor, is hereby authorized to enter into an

agreement with the Secretary for the purpose of extending insurance coverage to employes with respect to services specified in such agreement which constitute employment as defined in KRS 61.420. An agreement entered into under this section may contain provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration and other appropriate provisions as the state agency and Secretary shall agree upon. Any agreement, subject to the provisions of the Social Security Act, shall provide in effect that:

(1) Insurance coverage shall be provided for employes whose services are described in the agreement, and their dependents and survivors on the same basis as though such services constituted employment within the meaning of Title II of the Social Security Act;

(2) The state shall pay to the Secretary of the Treasury, at such times as may be prescribed under the Social Security Act, contributions with respect to wages equal to the sum of the taxes imposed by Sections 1400 and 1410 of the Federal Insurance Contributions Act if the services covered by the agreement constitute employment within the meaning of that Act;

(3) Insurance coverage will be afforded with respect to services performed after an effective date specified in the agreement or modification thereof; provided, however, that such date shall not be earlier than January 1, 1955, in the case of an agreement or modification made between January 1, 1955, and January 1, 1958; or earlier than January 1, 1956, in the case of an agreement or modification made at any time in the years 1958 or 1959; or earlier than the first day of the year in which the agreement or modification was made, in the case of an agreement or modification made at any time between January 1, 1960, and July 1, 1962; or earlier than the first day of the fifth year preceding the year in which the agreement or modification is made, in the case of an agreement or modification made at any time after July 1, 1962;

(4) Insurance coverage shall be afforded with respect to all services constituting employment; provided, however, in order for insurance coverage to be afforded with respect to services performed in the employ of a political subdivision of the state there must be in existence in regard to those services a plan which meets the requirements of KRS 61.460;

(5) Subject to the provisions of KRS 61.435, insurance coverage shall be afforded with respect to all services in positions covered

by a retirement system; provided, however, that no agreement will be effective to afford insurance coverage to any services performed in positions to which KRS 161.220 to 161.710 are applicable except for services performed in positions in a state college or public junior college. (1951, ex. s., c. 3, § 3; 1952, c. 29; 1956, c. 32, § 3; 1956, c. 166, § 1; 1958, c. 135, § 2; 1962, c. 12, § 3)

61.440 Interstate instrumentalities. Any instrumentality jointly created by this state and any other state or states is hereby authorized, to the extent that this Commonwealth may confer authority, (1) to enter into an agreement with Federal Security Administrator whereby the benefits of the Federal Old-Age and Survivors Insurance System shall be extended to employes of such instrumentality, (2) to require its employes to pay (and for that purpose to deduct from their wages) contributions equal to the amounts which they would be required to pay under subsection (1) of KRS 61.450 if they were covered by an agreement made pursuant to KRS 61.430, and (3) to make payments to the Secretary of the Treasury in accordance with such agreement, including payments from its own funds, and otherwise to comply with such agreement. Such agreement shall, to the extent practicable, be consistent with the terms and provisions of KRS 61.430, and all other terms and provisions, of KRS 61.410 to 61.500. (1951, ex. s., c. 3 § 4)

61.450 Contributions by State Employes. (1) Every employe of the state whose services are covered by an agreement entered into under KRS 61.430 shall be required to pay for the period of coverage, into the contribution fund established by KRS 61.470, contributions, with respect to wages received for each calendar year at the rate established by the Federal Insurance Contributions Act, as amended, and the Social Security Act, as amended. Such liability shall arise in consideration of the employe's retention in the service of the state, or his entry upon such service after March 14, 1951.

(2) The contribution imposed by this section shall be collected by deducting the amount of the contribution from wages as and when paid, but failure to make such deduction shall not relieve the employe from liability for such contribution.

(3) If more or less than the correct amount of the contribution imposed by this section is paid or deducted with respect to any wages, proper adjustment, or refund if adjustment is imprac-

ticable, shall be made, without interest, in such manner and at such times as the state agency shall prescribe. (1951, ex. s., c. 3, § 5; 1958, c. 135, § 3; 1960, c. 85, § 1; 1962, c. 12, § 5)

61.460 Plans for Coverage of Employes of Political Subdivisions. (1) Each political subdivision of the state is hereby authorized to submit for approval by the state agency a plan for extending insurance coverage to employes of such political subdivision; provided, however, that no such plan shall provide insurance coverage to an employe occupying a position to which KRS 161.220 to 161.710 are applicable except for employes of the state colleges and public junior colleges. Each such plan and any amendments thereof shall be approved by the state agency if it finds that such plan, or such plan as amended, is in conformity with such requirements as are provided in regulations of the state agency, except that no such plan shall be approved unless:

(a) It is in conformity with the requirements of the Social Security Act and with the agreement entered into under KRS 61.430;

(b) It provides that all services which constitute employment and are performed in the employ of the political subdivision by employes thereof, shall be covered by the plan;

(c) It specifies the source or sources from which the funds necessary to make the payments required by paragraph (a) of subsection (3) and by subsection (4) of this section are expected to be derived and contains reasonable assurance that such sources will be adequate for such purpose;

(d) It provides for such methods of administration of the plan by the political subdivision as are found by the state agency to be necessary for the proper and efficient administration thereof;

(e) It provides that the political subdivision will make such reports, in such form and containing such information, as the state agency may from time to time require, and will comply with such provisions as the state agency or the Secretary may from time to time find necessary to assure the correctness and verification of such reports; and

(f) It authorizes the state agency to terminate the plan in its entirety, in the discretion of the state agency, if it finds that there has been failure to comply substantially with any provision contained in such plan, such termination to take effect at the expiration of such notice and on such conditions as may be pro-

vided by regulations of the state agency and as may be consistent with the provisions of the Social Security Act.

(2) The state agency shall not finally refuse to approve a plan submitted by a political subdivision under subsection (1) of this section, and shall not terminate an approved plan, without reasonable notice and opportunity for hearing to the political subdivision affected thereby.

(3) (a) Each political subdivision for which a plan has been approved under this section is authorized to and shall pay into the Contribution Fund, with respect to wages, at such time or times as the state agency may by regulation prescribe, contributions in the amounts and at the rates specified in the applicable agreement entered into by the state agency under KRS 61.430, and, furthermore, in anticipation of the due date of any payments of contributions required herein, is authorized to and shall make such advancements as the state agency, by regulation or contract, may require.

(b) Each political subdivision is authorized to and shall make such payments as are determined by the state agency to be necessary for the purpose of defraying the expenses incurred by the state agency in administering KRS 61.410 to 61.500 for the benefit of those employes covered under any plan approved under subsection (1) of this section, but in no event shall such amount be greater than five percent of the contributions required under paragraph (a) of this subsection. Such payments shall be made into the State Treasury and shall be credited to a separate trust and agency fund to be used by the state agency solely for the purpose stated herein.

(c) Each political subdivision required to make payments under paragraph (a) of this subsection is authorized, in consideration of the employe's retention in, or entry upon, employment after the effective date of KRS 61.410 to 61.500, to impose upon each of its employes, as to services which are covered by an approved plant, a contribution with respect to wages received for each calendar year, at the rate established by the Federal Insurance Contributions Act, as amended, and the Social Security Act, as amended. Contributions so collected shall be paid into the Contribution Fund in partial discharge of the liability of such political subdivision under paragraph (a) of this subsection. Failure to deduct such contribution shall not relieve the employer of liability therefor.

(4) Delinquent payments due under paragraph (a) of subsection (3) of this section, with interest at the rate of six percent per year, may be recovered by action in the Franklin Circuit Court against the political subdivision liable therefore or may, at the request of the state agency, be deducted from any other moneys payable to such subdivision by any department or agency of the state. (1951, ex. s., c. 3, § 6; 1958, c. 135, § 4; 1960, c. 85, § 2; 1962, c. 12, § 6)

61.470 Contribution Fund. (1) There is hereby established a special fund to be known as the Contribution Fund. Such fund shall consist of and there shall be deposited therein: (a) all contributions, interest, and penalties collected under KRS 61.450 and 61.460; (b) all moneys appropriated or otherwise contributed thereto; (c) any property or securities and earnings thereof acquired through the use of moneys belonging to the fund; (d) interest earned upon any moneys in the fund, and (e) all sums recovered from the bond of the custodian or otherwise for losses sustained by the fund, and all other moneys received for the fund from any other source. All moneys in the fund shall be mingled and undivided. Subject to the provisions of KRS 61.410 to 61.500, the state agency is vested with full power, authority and jurisdiction over the fund, including all moneys and property or securities belonging thereto, and may perform any and all acts whether or not specifically designated, which are necessary to the administration thereof and are consistent with the provisions of KRS 61.410 to 61.500.

(2) The Contribution Fund shall be a trust and agency fund which shall not lapse and shall be held separate and apart from any other funds or moneys of the state and shall be used and administered exclusively for the purposes of KRS 61.410 to 61.500. Withdrawals from such fund shall be made for, and solely for (a) payment of amounts required to be paid to the Secretary of the Treasury pursuant to an agreement entered into under KRS 61.430; (b) payment of refunds provided for in subsection (3) of KRS 61.450; and (c) refunds of overpayments, not otherwise adjustable, made by a political subdivision.

(3) From the Contribution Fund the custodian of the fund shall pay to the Secretary of the Treasury such amounts at such time or times as may be directed by the state agency in accordance with any agreement entered into under KRS 61.430.

(4) The Treasurer of the state shall be ex officio treasurer and custodian of the Contribution Fund and shall administer such fund in accordance with the provisions of KRS 61.410 to 61.500 and the directions of the state agency, and shall pay all warrants drawn upon the fund in accordance with the provisions of this section and with such regulations as the state agency may prescribe pursuant thereto. (1951, ex. s., c. 3, § 7)

61.480 State Contributions Authorized. Authorization is hereby granted to all offices, departments, boards, commissions, institutions, and all other agencies of the state government of the Commonwealth of Kentucky to make payments to the Contribution Fund out of moneys, not required by law or contract to be expended for other purposes, in any revolving, trust or agency fund, or out of appropriations for recurring expenses heretofore or hereafter made by the General Assembly from the General Expenditure Fund or special funds. (1951, ex. s., c. 3, § 8)

61.490 Rules and Regulations. The state agency shall make and publish such rules and regulations, not inconsistent with the provisions of KRS 61.410 to 61.500, as it finds necessary or appropriate to the efficient administration of the functions with which it is charged under KRS 61.410 to 61.500. (1951, ex. s., c. 3, § 10)

61.500 Retroactive Effect of KRS 61.410 to 61.500, and 195.100. The provisions of KRS 61.410 to 61.500, and 195.100 shall be retrospective to January 1, 1951, and any agreement entered into pursuant to it may be made with retroactive effect to January 1, 1951, or any date thereafter. (1951, ex. s., c. 3, § 12)

RETIREMENT SYSTEM RECIPROCAL CREDIT

61.558 Service Credit; Other Public Employment. (1) Upon Service retirement, a member of the Kentucky Employes' Retirement System may obtain credit for all or any part of the service otherwise creditable under the County Employes' Retirement System, the Teachers' Retirement System, or in the service of the United States Government for which service credit is not otherwise given, upon the payment by the member of such amount or amounts as are actuarially determined to be equal to the increased liability of the Kentucky Employes' Retirement System by virtue of such additional service credit.

(2) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(3) No person shall be allowed credit for the same period of service in more than one of these three retirement systems (1962, c. 107, § § 1, 4, 5)

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, § 6)

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 or 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 or 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 Commisioner of Business Regulation), the members of the State Fair Board, Kentucky Aeronautics Commission, and Game and Fish Commission, and the associate 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	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 Labor	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; Blanket Bonds; Amount; Insurance Companies That May Participate. (1) The Commissioner of Finance shall secure, except for state officers required by KRS 62.160 to file bond, blanket bonds, with or without cosureties, written on a blanket position form, to cover all other officers, employes or deputies of the Commonwealth of Kentucky, including all other members of boards or commissions or employes of such boards or commissions, and including all superintendents, receivers or employes of penal or eleemosynary institu-

tions managed or directed by the Department of Welfare or any other department or agency of the Commonwealth of Kentucky. Nothing in this paragraph shall be deemed to prohibit the securing of any such blanket position bond on a departmental, board, commission, agency or institutional basis.

(2) The Commissioner of Finance may secure one or more excess blanket bonds, with or without cosureties, to cover selected groups of persons covered by the bond or bonds required in the preceding paragraph to provide additional coverage which he may deem necessary by the exposures indicated 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.

(3) Such bond or bonds shall be written by and participated in only by insurance companies licensed by the Department of Insurance to do business in this state and shall be countersigned by a duly authorized licensed resident agent of the company. Such bonds may be written with or without cosureties. Further, such bonds are to be a percentage of the total risks, the Department of Insurance to approve the amount of the risk written by any one company.

(4) The penal amount of the bond secured pursuant to 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; 1956, c. 153, § 1; 1960, c. 101; effective June 16, 1960)

62.180 Condition of Bonds of State Officers; Ex Officio Liability. Each bond provided for in KRS 62.160 shall be a covenant to the Commonwealth of Kentucky that the principal will faithfully discharge his duties and will faithfully account for any 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; 1956, c. 153, § 2; effective May 18, 1956)

62.190 Conditions of Blanket Bonds. The bonds provided for by section 62.170 of the Kentucky Revised Statutes 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. (1946, c. 27, § 4; 1950, c. 23, § 1; 1956, c. 153, § 3; effective May 18, 1956)

62.200 Corporate Surety on Bonds of State Officers and Employes; Approval As to Form and Legality; 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) 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; 1950, c. 23, § 2)

REMOVAL FROM OFFICE

63.080 Governor May Remove Officers Appointed by Him, Without Cause, Except in Case of Boards of State University and Colleges. (1) Except as provided in subsection (2) of this section and otherwise provided by law, any person appointed by the Governor, either with or without the advice and consent of the Senate, may be removed from office by the Governor for any cause the Governor deems sufficient, by an order of the Governor entered in the Executive Journal removing the officer.

(2) Members of the Board of Trustees of the University of Kentucky, members of the Board of Regents respectively of Eastern Kentucky State Teachers College, Western Kentucky State Teachers College, Morehead State Teachers College and Murray State Teachers College may not be removed except for cause. (1948, c. 25)

The word "Teachers" has been removed from the names of the State Colleges. See KRS 164.290.

VACANCIES FILLED

63.190 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.

COMPENSATION OF OFFICERS

64.410 (1749) **How Fee-bills Made Out; Provisions Concerning.** (1) The fee-bills of every officer shall be made out at length, in figures and in plain English, and signed by the officer in his official capacity.

(2) No officer shall demand or receive for his services:

(a) Any other or greater fee than is allowed by law;

(b) Any fee for services rendered when the law has not fixed a compensation therefor;

(c) Any fee for services not actually rendered.

(3) Where there are more plaintiffs or defendants than one in an action and they sever in their pleadings or otherwise, so that part of them cause an officer to render separate services for him or them, for which the others ought not to be liable, the fees for such services shall be charged separately to those for whom the service is rendered.

(4) No officer in making out his fee-bill shall omit the name of any person properly chargeable therewith, or insert the name of a person not properly chargeable.

(5) Fees against a person acting in a trust capacity shall be made out against him in such capacity and he shall only be liable therefor to the extent of the trust funds in his hands liable to the payment thereof.

(6) No fee-bill shall be made out, or compensation allowed hereafter, for any ex officio services rendered by any officer.

64.480 Compensation of Elective State Officers. Effective, with respect to the offices of Governor and Lieutenant Governor, on the fifth Tuesday following the regular November election in 1959, and with respect to the other offices named in this section, on the first Monday in January, 1960, the compensation of the following named officers, payable monthly out of the State Treasury shall be the sum per annum designated for the respective offices, as follows:

Governor, $18,000;

Lieutenant Governor, an amount sufficient, when added to any per diem received during sessions of the General Assembly while serving in the capacity of President of the Senate, to equal $12,000

per annum, plus any compensation received while acting in the place of the Governor;

Attorney General, $12,000;

Superintendent of Public Instruction, $12,000;

Commissioner of Agriculture, $12,000;

Secretary of State, $12,000;

State Treasurer, $12,000;

Auditor of Public Accounts, $12,000;

Clerk of the Court of Appeals, $12,000.

(1950, c. 23, § 1; 1954, c. 176; 1958, c. 50)

64.590 Compensation of Officers and Employes of Political Subdivisions or Local Governmental Units or Districts Other than Counties or Cities, Including School Districts. In the case of any political subdivision or local governmental unit or district other than a county or city, having a governing body or authority composed of more than one member, such governing body or authority shall fix the compensation of every officer and employe of the political subdivision, local governmental unit or district whose compensation is payable from the funds of the political subdivision, governmental unit or district, except that in the case of officers elected by popular vote the same limitations and restrictions shall apply as are applicable under KRS 64.580 to the fixing of compensation of city officers elected by popular vote. Nothing in this section is intended to confer any power on any governing board or authority, with respect to the compensation of its own members, that it does not specifically possess under other statutes. This section applies to school districts, but is not intended to supersede any present provision of law relating to the fixing or payment of the compensation of teachers. (1950, c. 123, § 15)

64.640 Compensation of State Officers and Employes Generally. (1) Except as otherwise provided in subsection (2) of this section, and excepting officers elected by popular vote, commissioners of the Court of Appeals, employes of the General Assembly, including employes of the Legislative Research Commission, members of boards and commissions, and presidents and employes of the University of Kentucky and the state colleges, the Department of Personnel shall prepare a schedule of compensation, payable out of the

State Treasury, with a minimum and maximum salary rate, and such intermediate salary rates as are deemed necessary or advisable, for the office or position of employment of every state officer and employe, including specifically the offices and positions of employment in every constitutional administrative department, statutory administrative department, independent agency, or other unit of state government. Such schedules shall be based upon studies of the duties and responsibilities of the offices and positions and upon a comparison with rates being paid for similar or comparable services elsewhere, and in the preparation of such schedules, the Department of Personnel shall ascertain and record the duties, responsibilities and authority pertaining to the various offices and positions in the state service, and classify such positions in the manner provided in KRS 18.190 to 18.230. No such schedule shall become effective until it has been approved by the Governor.

(2) The Governor shall set the compensation payable out of the State Treasury to each office or position in the state service hereinafter named. Such compensation shall be based upon studies of the duties and responsibilities of the positions and upon a comparison with compensation being paid for similar or comparable services elsewhere; provided, however, such compensation shall not exceed $17,500.00.

(a) Adjutant General, Commissioner of Alcoholic Beverage Control, Executive Director of the State Tuberculosis Sanatoria Commission, Commissioner of Child Welfare, Commissioner of Conservation, Commissioner of Commerce, Commissioner of Economic Security, Commissioner of Finance, Commissioner of Health, Commissioner of Highways, Commissioner of Public Information, Commissioner of Public Safety, Commissioner of Revenue, Commissioner of Banking and Securities, Commissioner of Insurance, Commissioner of Motor Transportation, Commissioner of Personnel, Commissioner of Corrections, Commissioner of Mines and Minerals.

(b) Administrator of Distilled Spirits Unit, Administrator of Malt Beverages Unit, Commissioner of Aeronautics, Commissioner of Fish and Wildlife Resources, Commissioner of Labor, Director of the Commission for Handicapped Children, Manager of the Kentucky State Fair, Reviser of Statutes, Chairman of the Public Service Commission.

(c) Members of the Public Service Commission of Kentucky, other than the chairman, members of the Workmen's Compensa-

tion Board, the provisions of KRS 64.660 to the contrary nothwithstanding, and heads of statutory departments and agencies other than those named in paragraphs (a) and (b) of this subsection.

(3) The compensation payable out of the State Treasury to officers and employes subordinate to any office or position listed in subsection (2) of this section shall not exceed the maximum rate established pursuant to subsection (2) of this section for such office or position, except with respect to physicians as provided in KRS 64.655 and employes of the Public Service Commission of Kentucky whose compensation shall be fixed, within constitutional limits, by the Department of Personnel with the approval of the Governor as provided in subsection (1) of this section.

(4) The compensation payable out of the State Treasury to any subordinate officer or employe in any department, agency, board or commission of the state government not covered by subsection (3) of this section, except elective officers, their assistants and employes, shall not exceed $7,500 per annum, provided however that Doctors of Veterinary Science may be paid not to exceed $10,000 per annum.

(5) Nothing in this section shall preclude the allowance of maintenance to officers and employes of the state. (1950, c. 123, § 22; 1952, c. 98; 1954, c. 174, § 1; 1956, 1st ex. s., c. 7, Art. III; 1960, c. 38; 1962, c. 106, Art. I, § 11; 1962, c. 184, § 1; 1962, c. 210, § 13)

64.660 Compensation of Members of Public Boards and Commissions. Nothing in KRS 64.480 to 64.760 is intended to authorize the increase of the compensation now fixed by law for the members of any public board or commission for their services as members of the board or commission, except members of fiscal courts to the extent authorized in subsection (3) of KRS 64.530. (1950, c. 123, § 24)

64.670 Compensation of Public Officers and Employes for 1950. For the year 1950, any increased compensation authorized or allowed for any public officer or employe by virtue of KRS 64.480 to 64.760 or under authority conferred by KRS 64.480 to 64.760 shall be payable at the new rate only for such full months of the year 1950 as remain after June 30. In the case of officers paid wholly or in part from fees, the maximum limit on the compensation of such officer fixed by or pursuant to KRS 64.480 to 64.760 shall be deemed

to constitute his annual rate of compensation, and he shall be entitled to receive as compensation for the year 1950 only such sum as would be allowable under this section had his compensation been paid and received in the form of a monthly salary. (1950, c. 123, § 25)

Board of Education of Lawrence County v. Workman, Sheriff, 256 S. W. (2d) 528. Proof in action for declaratory judgment determining amount of sheriff's compensation for collecting school taxes was not adequate to enable final and correct decision to be made, and case would be remanded for taking of further proof designed to show what portion of time of sheriff and his deputies was devoted to tax collection work. (March 27, 1953.)

64.680 Applicability of KRS 64.480 to 64.760 to Officers in Office on June 30, 1950. Except as otherwise provided in KRS 64.480 to 64.760, and subject to the restrictions prescribed in KRS 64.480 to 64.760, it is the express intent of the General Assembly, in accordance with the authority granted by Section 246 of the Constitution, as amended, that any change in compensation made or authorized to be made by KRS 64.480 to 64.760 shall apply to officers in office on June 30, 1950, subject to the express limitation that when one change in the compensation of any officer in office on June 30, 1950 has been made or become effective by or under KRS 64.480 to 64.760, during his term of office, no further change in his compensation may be made or become effective during his term. (1950, c. 123, § 26)

64.690 Applicability of Other Statutes Dealing With Compensation. (1) Except as provided in KRS 64.610 and 64.700 and in subsections (2), (3) and (4) of this section, KRS 64.480 to 64.760 are intended to supersede any existing statute, or provision of the Civil Code or Criminal Code, and any other Act enacted at the 1950 Session of the General Assembly, fixing the compensation, or authorizing any public officer or body to fix the compensation, of any public officer or employe covered by KRS 64.480 to 64.760.

2) Any public officer or body which now has authority to fix the compensation of any state officer or employe covered by KRS 64.640 shall continue to exercise such authority, subject to the schedule and limits of compensation for the particular office or position prescribed under KRS 64.640.

(3) KRS 64.480 to 64.760 are not intended to supersede any existing statute, or any Act enacted at the 1950 Session of the General Assembly, with respect to the compensation of circuit clerks, county clerks, sheriffs, jailers, master commissioners and receivers, and their deputies and assistants, in counties containing a population

of 75,000 or more, or county tax commissioners, their deputies and assistants, in any county.

(4) Until such time as the new rates of compensation for the officers named in KRS 6.190 and 64.480 become effective under those sections, KRS 64.480 to 64.760 are not intended to supersede the existing statutes relating to the compensation of those officers, and KRS 64.480 to 64.760 are not intended at any time to supersede the existing statutes relating to the compensation of the Chief Clerks of the Senate and House of Representatives except as to subsection (3) of KRS 6.230. (1950, c. 123, § 27)

64.700 Old Compensation Rates Applicable Until Specific Action Taken by Salary-Fixing Authority. Until such time as the public officer or body authorized by KRS 64.480 to 64.760 to fix the compensation or the limits of compensation of a public officer or employe exercises such authority with respect to such officer or employe, the compensation of such officer or employe shall not exceed that fixed under the statutory law in force and effect prior to June 30, 1950, or, in the case of any officer whose compensation was limited only by the Constitution and not by statute, shall not exceed the limit fixed by Section 246 of the Constitution prior to its amendment. Nothing in KRS 64.480 to 64.760 is intended to authorize an increase of the compensation of any officer in office on June 30, 1950, during his term of office, except where KRS 64.480 to 64.760 makes such increase or where the public officer or body having authority under KRS 64.480 to 64.760 to fix the compensation or the limits of compensation takes specific action to make such increase. (1950, c. 123, § 28)

64.710 Expense Accounts and Contingent Funds Prohibited; Exceptions. No public officer or employe shall receive or be allowed or paid any lump sum expense allowance, or contingent fund for personal or official expenses, except where such allowance or fund either is expressly provided for by statute or is specifically appropriated by the General Assembly. (1950, c. 123, § 30)

GENERAL POWERS OF CITIES AND COUNTIES

65.210 Short title of KRS 65.210 to 65.300. KRS 65.210 to 65.300 may be cited as the Interlocal Cooperation Act. (1962, c. 216, § 1, effective June 14, 1962)

65.220 Purpose of KRS 65.210 to 65.300. It is the purpose of KRS 65.210 to 65.300 to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities. (1962, c. 216, § 2, effective June 14, 1962)

65.230 Definition for KRS 65.210 to 65.300. As used in KRS 65.210 to 65.300, unless the context otherwise requires,

"Public agency" means any political subdivision of this state, any agency of the state government or of the United States. (1962, c. 216, § 3)

65.240 Joint Exercise of Power by State Agencies With Other Public Agencies. (1) Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state, or of the United States to the extent that the laws of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges and authority conferred by KRS 65.210 to 65.300 upon a public agency.

(2) Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the provisions of KRS 65.210 to 65.300. Appropriate action by ordinance, resolution or otherwise pursuant to law, of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force. (1962, c. 216, § 4, effective June 14, 1962)

65.250 Contents of Agreements Authorized by KRS 65.240.

(1) Any such agreement shall specify the following:

(a) The duration of the agreement;

(b) The precise organization, composition and nature of any separate legal or administrative entity created thereby together with a statement of the powers delegated thereto; provided such legal entity may be legally created;

(c) The purpose or purposes of such legal or administrative entity;

(d) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor;

(e) The permissable method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

(f) Any other necessary and proper matters.

(2) In the event that the agreement does not establish a separate legal or administrative entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to paragraphs (a), (c), (d), (e) and (f) enumerated in subsection (1) of this section, contain the following:

(a) Provision for an administrator or joint board responsible for administering the joint or cooperative undertaking. In the event that a joint board is established, the public agencies party to the agreement shall be represented thereon;

(b) The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking. (Enacted as subsections (3) and (4) of 1962, c. 216, § 4, effective June 14, 1962)

65.260 Limitation Upon Agreements; Approval by Attorney General. (1) No agreement made pursuant to KRS 65.210 to 65.300 shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made pursuant to KRS 65.210 to 65.300, said performance may be offered in satisfaction of the obligation or responsibility.

(2) Every agreement made pursuant to KRS 65.210 to 65.300 shall, prior to and as a condition precedent to its entry into force, be submitted to the Attorney General who shall determine whether the agreement is in proper form and compatible with the laws of this state. The Attorney General shall approve any agreement submitted to him under this subsection unless he finds that it does not meet the conditions set forth in KRS 65.210 to 65.300. In the event that the agreement does not meet such conditions, the Attorney General shall detail in writing, addressed to the governing

bodies of the public agencies concerned, the specific respects in which the proposed agreement fails to meet the requirements of law. (1962, c. 216, § 4, effective June 14, 1962)

65.270 Revenue Bonds. (1) Whenever any two or more public agencies, as defined in KRS 65.230, enter into an agreement for joint or cooperative action pursuant to the provisions of KRS 65.210 to 65.300, any such public agency acting separately or jointly with one or more of any such agencies, may acquire, construct, maintain, add to and improve the necessary property, real and personal, which is required in order to perform the functions under the agreement, and for the purpose of defraying the costs incident to the performance of such agreement, may borrow money and issue negotiable revenue bonds.

(2) Any public agency or agencies may borrow money and issue bonds under this section pursuant to an order, resolution or ordinance of its or their legislative or administrative body or bodies, which order, resolution or ordinance shall set forth the terms of the agreement in full, the amount of the revenue bonds to be issued and the maximum rate of interest. In every instance the order, resolution or ordinance shall provide that the joint or cooperative action is being undertaken pursuant to the provisions of KRS 65.210 to 65.300.

(3) The bonds may be issued to bear interest at a rate not to exceed six percent per annum, payable either annually or semi-annually, and shall be executed in such manner and be payable at such times not exceeding thirty years from the date of issuance and at such place or places as the public agency or agencies determines.

(4) The bonds may provide that they or any of them may be called for redemption prior to maturity, on interest payment dates not earlier than one year from the date of issuance of the bonds.

(5) Any public agency is hereby empowered to accept donations or gifts to the joint or cooperative action from any source and to accept appropriations and grants to the joint or cooperative action from the Federal Government or any agency thereof and appropriations from the state or any county, city or other political subdivision and, at the option of the public agency or agencies, to pledge such donations, gifts or appropriations to the payment

of revenue bonds issued to finance the cost of such joint or cooperative action.

(6) Bonds issued pursuant to this section shall be negotiable and shall not be subject to taxation. If any officer whose signature or countersignature appears on the bonds or coupons ceases to be such officer before delivery of the bonds, his signature or countersignature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until delivery. The bonds shall be sold in such manner and upon such terms as the public agency or agencies deem best. In no event shall any bonds be negotiated on a basis to yield more than six percent, except as provided in subsection (4) of this section. The bonds shall be payable solely from the revenue derived from the joint or cooperative action and shall not constitute an indebtedness of the state, county, city or political subdivision. It shall be plainly stated on the face of each bond that it has been issued under the provisions of KRS 65.210 to 65.300.

(7) All money received from the bonds shall be applied solely for the acquisition, construction, maintenance, improvement or operation of the joint or cooperative action, and the necessary expense of preparing, printing and selling said bonds, or to advance the payment of interest on the bonds during the first three years following the date of the issuance of the bonds.

(8) Before the issuance of the bonds the public agencies party to the agreement shall, by orders, resolutions or ordinances of their respective legislative bodies, set aside and pledge the income and revenue of the joint or cooperative action including rents, royalties, fees and proceeds of sales of property and from rates and charges for services derived or rendered by the joint or cooperative action into a separate and special fund to be used and applied in payment of the cost of the maintenance, operation and depreciation incident to the joint or cooperative action. The orders, resolutions or ordinances shall determine and fix the amount of revenue necessary to be set apart and applied to the payment of principal and interest of the bonds, and the proportion of the balance of the income and revenue to be set aside as a proper and adequate depreciation account. The remaining proportion of such balance shall be set aside for the reasonable and proper operation and maintenance of the joint or cooperative action.

(9) The rents, royalties, fees, rates and charges for the service

or sale of the joint or cooperative action shall be fixed and revised from time to time so as to be sufficient to provide for the payment of interest upon all bonds and to create a sinking fund to pay the principal of such bonds when due, and to provide for the operation and maintenance of the joint or cooperative action and an adequate depreciation account. (1962, c. 216, § 5, effective June 14, 1962)

65.280 Effect of Civil Service Laws and Regulations Upon Transferred Employes. (1) In the event that a public agency or agencies determine to transfer any of its employes to the joint or cooperative action, which employers are subject to any civil service laws or regulations, such employes shall not lose any rights or benefits which have accrued prior to such transfer.

(2) In the event that the joint or cooperative action is such that its employes would be afforded civil service pension rights or benefits if they were employes of a county or city, such employes may be afforded the protection of civil service laws or regulations; provided, however, that such protection is available under the laws of this state. (1962, c. 216, § 6, § 7, effective June 14, 1962)

65.290 Copies of Agreement Must Be Filed. Before any agreement made pursuant to KRS 65.210 to 65.300 shall become operative or have force and effect, a certified copy thereof shall be filed with the county clerk of the county which is party to the agreement, the city clerk of the city which is party to the agreement, the county clerk of the county wherein any other political subdivision of the state is located which is party to such agreement, and with the Secretary of State. (1962, c. 216, § 8, effective June 14, 1962)

65.300 Approval of Agreement by Officer or Agency Required. In the event that an agreement made pursuant to KRS 65.210 to 65.300 shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by such officer or agency as to all matters within the jurisdiction of such officer or agency in the same manner and subject to the require-

ments governing the action of the Attorney General pursuant to subsection (2) of KRS 65.260. The requirement of this section shall be in addition to and not in substitution for the requirement of submission to and approval by the Attorney General under subsection (2) of KRS 65.260. (1962, c. 216, § 9, effective June 14, 1962)

Board of Education of Graves County v. DeWeese, 343 S. W. (2d) 598. 1961. In absence of specific authority for lump sum expense allowances to school superintendents, payment of $50 per month to school superintendent, pursuant to order of school board which recited that allowance was not to exceed $600 a year but which was contemporaneously construed by contracting parties as lump sum allowance, was a blanket allowance violating statute to effect that no public officer or employe shall receive any lump sum expense allowance except where such allowance is expressly provided for by statute or specifically appropriated by general assembly.

Richardson v. Monroe County, 112 S. W. (2d) 47, 271 Ky. 368 and First National Bank of Princeton v. City of Princeton, 117 S. W. (2d) 210, 273 Ky. 601. Bell v. Board of Education of Barren County Sch. Dist., 343 S. W. (2d) 804. 1961 Reasonable expenses incident to issuance and sale of municipal funding bonds are within purposes for which such bonds are issued and to which proceeds thereof, including premiums obtained in sale thereof, must be applied; overruling, insofar as in conflict.

1961. Annual special tax, in excess of maximum regular ad valorem tax levy authorized by statute, could be levied to amortize principal and interest of funding bonds validly issued by county school district, where maximum regular levy was insufficient. Ibid.

1961. Floating indebtedness, necessarily incurred by county board of education, not in excess of constitutional debt limitation, for legitimate school purposes, because reasonably anticipated franchise tax collections had been greatly reduced by judicial invalidation of method of computing assessed valuation of gas pipeline franchises, constituted valid obligation of county school district which could be funded by bond issue. Ibid.

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, where applicable to a county, 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. (1962, c. 25, § 1, effective June 14, 1962)

Patterson v. Board of Education, 269 S. W. (2d) 739. Decision of court finding that board had due and conservative regard for finances a bond issue to fund a deficit caused by falling off of anticipated revenue from whisky withdrawals was valid.

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 year before year closes so as to determine what indebtednss 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 section 158 of the Constitution, 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 evi-

dence 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 section 158 of the Constitution.

(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 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.)

Bell v. Board of Education of Barren County School District, 343 S. W. (2d) 804. 1961. Floating indebtedness, necessarily incurred by county board of education, not in excess of constitutional debt limitation, for legitimate school purposes, because reasonably anticipated franchise tax collections had been greatly reduced by judicial invalidation of method of computing assessed valuation of gas pipeline franchises, constituted valid obligation of county school district which could be funded by bond issue.

1961. Annual special tax, in excess of maximum regular ad valorem tax levy authorized by statute, could be levied to amortize principal and interest of funding bonds validly issued by county school district, where maximum regular levy was insufficient. Ibid.

Richardson v. Monroe County, 112 S. W. (2d) 47, 271 Ky. 368 and First National Bank of Princeton v. City of Princeton, 117 S. W. (2d) 210, 273 Ky. 601. Ibid. 1961. Reasonable expenses incident to issuance and sale of municipal funding bonds are within purposes for which such bonds are issued and to which proceeds thereof, including premiums obtained in sale thereof, must be applied; overruling, insofar as in conflict,

DEFINITION OF PUBLIC WORKS

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, § 3)

CONSOLIDATION OF SCHOOL DISTRICTS

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 authorized 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 orginally 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, § 12)

RETIREMENT SYSTEM RECIPROCAL CREDIT

78.605 Service Credit; Other Public Employment. (1) Upon service retirement, a member of the County Employes' Retirement System may obtain credit for all or any part of the service otherwise creditable under the Kentucky Employes' Retirement System, the Teachers' Retirement System, or in the service of the United States Government for which service credit is not otherwise given, upon the payment by the member of such amount or amounts as are actuarially determined to be equal to the increased liability of the County Employes' Retirement System by virtue of such addition service credit.

(2) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(3) No person shall be allowed credit for the same period of service in more than one of these three retirement systems. (1962, c. 107, § § 2, 4, 5)

FOURTH CLASS CITY PROPERTY FOR EDUCATION

86.010 [3481] **Incorporation and General Powers.** Each city of the fourth class shall constitute a corporation with the following powers:

(1) To sue and be sued;

(2) To contract and be contracted with;

(3) To acquire and hold property for municipal purposes;

(4) To have a common seal and change it at pleasure;

(5) To receive property of every kind and character for municipal, educational, charitable or recreational purposes, and to control and distribute same for the purposes of the gift. (1962, c. 17, § 1, effective February 19, 1962)

IN COMMISSION GOVERNMENT 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 89.260 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.

FURNISHING WATER TO ANOTHER CITY OR OUTSIDE LIMITS

96.150 [2741a-4] **Extending Water System Outside City Limits.** Any city that owns or operates a water supply system may extend the system into, and furnish and sell water to any person within, any territory contiguous to the city that lies within ten miles of the corporate limits, and may install within that territory necessary apparatus. For this purpose the city may condemn or otherwise acquire franchises, rights and rights of way, as private corporations may do. (1962, c. 233, § 1)

Note: The 1962 amendment to KRS 96.150 takes effect March 22, 1962. City may contract with county water district to receive water, KRS 74.120.

EQUIVALENT TO SCHOOL TAX

96.536 City-Owned Light, Water or Gas Plant May Pay Tax Equivalent to School District. (1) Each board of education of a

public school district in which is located the property or properties of a publicly-owned light, water, or gas plant may each year be paid by the governing board of such plant from the proceeds of the sale of electrical energy, water or gas an amount which shall not exceed that determined by multiplying the book value of the property or properties of such publicly-owned light, water or gas plant as of the beginning of each year by the current tax rate levied for school purposes for the school district in which such property or properties may be located. "Book value," as used in this section, means the cost of tangible property plus additions, extensions and betterments, less reasonable depreciation or retirement reserve, and "year" as herein used shall mean the twelve-month period ending June 30. The book value so determined shall be in accordance with standard accounting practices. No payment may be made under this section except pursuant to a resolution of the governing board of the plant, adopted by a unanimous vote of the members of the board.

(2) Amounts for any year, as provided in subsection (1) of this section, shall be paid to the board of education on or before January 1 of each year.

(3) This section shall not apply to any publicly-owned electric plant that is subject to the provisions of KRS 96.820.

(4) This section shall be construed only as an enabling Act and shall in no wise confer upon any board of education of a public school district authority to require this money to be paid to it. (1948, c. 54)

96.895 Proration and Distribution Among the State, Counties, Cities and School Districts of Payments of Sums Equivalent to Taxes Based on Book Value. (1) Except for payments made directly by the Tennessee Valley Authority to counties, the total fiscal year payment received by the Commonwealth of Kentucky from the Tennessee Valley Authority, as authorized by Section 13 of the Tennessee Valley Authority Act as amended, shall be prorated thirty per cent to the General Fund of the Commonwealth and seventy per cent among counties, cities, and school districts as provided in subsection (2) of this section.

(2) The payment to each county, city, and school district shall be determined by the proportion that the book value of Tennessee Valley Authority property in such taxing district, multiplied by the current tax rate, bears to the total of the book values of Tennessee

Valley Authority property in all such taxing districts in the Commonwealth, multiplied by their respective tax rates.

(3) As soon as practicable after the amount of payment to be made to the Commonwealth of Kentucky is finally determined by the Tennesse Valley Authority, the Kentucky Department of Revenue shall determine the book value of Tennessee Valley Authority property in each county, city, and school district and shall prorate the total payments received from the Tennessee Valley Authority, except payments received directly from the Tennessee Valley Authority, among the distributees as provided in subsection (2) of this section. The Department of Revenue shall certify the payment due each taxing district to the Department of Finance which shall make the payment to such district.

(4) As used in subsections (2) and (3) of this section, "Tennessee Valley Authority Property" means land owned by the United States and in the custody of the Tennessee Valley Authority, together with such improvements (including work in progress but excluding temporary construction facilities) as have a fixed situs thereon if and to the extent that such improvements either: (a) were in existence when title to the land on which they are situated was acquired by the United States; or (b) are allocated by the Tennessee Valley Authority or determined by it to be allocable to power; provided however, that manufacturing machinery as interpreted by the Department of Revenue for franchise tax determination shall be excluded. As used in said subsections "book value" means original cost less accrued depreciation as reflected in Tennessee Valley Authority's books of account. "Book value" shall be determined, for purposes of applying said subsections, as of the June 30 used by the Tennessee Valley Authority in computing the annual payment to the Commonwealth which is subject to redistribution by the Commonwealth.

(5) This section shall be applicable to all payments received after June 30, 1954 from the Tennessee Valley Authority under Section 13 of the Tennessee Valley Authority Act as amended. (1952, c. 61)

RECREATION CENTERS

97.010 [3909a-1; 3909a-4] **City and County Recreation Facilities.** (1) The acquisition, development, maintenance and operation of parks, 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 parks, 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 purchases, lease, condemnation or otherwise, at any place reasonably accessible to the inhabitants of the city or county and either within or without the boundaries of the city or the county.

(2) Any two or more cities, or any city and county, may jointly establish, maintain and conduct a park and recreation system. Any school district may join with any city or county in providing and conducting public parks, playgrounds and recreation centers. (1958, c. 124, § 1)

Wilson, et al. v. Graves County Board of Education, et al., 307 Ky. 203, 210 S. W. (2d) 350. School Board not authorized to purchase single-handedly a lakeside tract in another county for joint benefit of public school pupils and 4-H Club members under statute authorizing a school district to join with city or county in providing recreation center or statute empowering school boards to promote health and welfare of pupils, as provided in Section 97.010 and 160.290, KRS. (March 9, 1948.)

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 purpose should not be applied to other purposes, since the terms "education," "common school purpose," and "common school system" embrace recreational training. (June 23, 1944.)

97.020 [3909a-2] **Establishment of Local Recreational Facilities.** The legislative body of any city or the fiscal court of any county may establish a park, playground and recreation system and may vest the power to provide, maintain and conduct parks, playgrounds and recreation centers in a park board, board of education, playground and recreation board or other existing board. Any board so designated may maintain and equip parks, playgrounds and recreation centers and the buildings thereon, and may employ trained and qualified park superintendents, playground directors, supervisors, recreation superintendents or other officers and employes as it deems proper. (1958, c. 124, § 2)

FINANCING STREET AND SIDEWALK REPAIRS

107.140 Benefited Property; What Constitutes, Action Against County. (1) In the case of improvements of public ways, the benefited property shall consist of all real property abutting upon both sides of the improvement project, and the costs of improving intersections shall be included in the total costs to be assessed and apportioned, unless and to the extent the city shall appropriate,

from within constitutional limitations, from available funds, definite and specified sum as a contribution thereto, or a portion of the aggregate cost, or the cost of specified portions of the improvement; provided however, that if provision shall be made for sidewalk improvements upon only one side of the project, the costs of the sidewalk improvement shall be ascertained and assessed separately against the property abutting upon that side only, but the governing body may provide that such assessment shall include a fair share of the over-all costs, as herein defined, other than the amounts of the actual construction contracts.

(2) Benefited property owned by the city, county or state, or owned by the United States Government or any of its agencies, if such property is subject to assessment by Act of Congress, shall be assessed annually the same as private property, and the amount of the annual assessment shall be paid by the city, county, state, or United States Government, as the case may be. The same right of action shall lie against the county as against a private owner. In the case of the state, the amount of the annual assessment shall be certified by the city treasurer to the Department of Finance, which shall thereupon draw a warrant upon the State Treasurer, payable to the city treasurer, for the amount thereof, and the State Treasurer shall pay the same out of any money in the State Treasury not otherwise appropriated. For the purpose of this chapter, all public school property shall be deemed to be property owned by the State, as provided by KRS 162.010.

(3) No benefited property shall be exempt from assessment. (1956, c. 239, § 14; 1960, c. 226, § 5)

Title to all property owned by a school district is vested in the Commonwealth for the district board of education, KRS 162.010.

NOMINATING SCHOOL BOARD MEMBERS

118.130 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)

PROTEST AGAINST TAX ASSESSMENT

131.110 [4114h-4; 4114h-5] **Protest Against Assessment by Department of Revenue; Appeal to Kentucky Tax Commission.** (1) The Department of Revenue or its agent shall mail to the taxpayer a notice of any tax assessed by it or its agent. Unless the taxpayer protests the assessment in the manner provided in this subection, the asesment hall be final at the expiration of thirty days from the date of notice, but the assessment shall be reviewable as provided in subsection (2). Such protest shall be filed with the Department of Revenue in writing and shall be accompanied by a supporting statement setting forth the grounds for and information upon which the protest is made. Upon written request, the department may extend the time for filing the supporting statement if it appears that the delay is necessary and unavoidable. A refusal of such an extension may be reviewed in the same manner as in the case of a protested assessment. At the time of filing both the protest and supporting statement, the taxpayer may request a ruling on the protest as filed or may request a conference with the department or its agent which shall be granted in writing stating the time set for the conference. The taxpayer may appear in person or by representative. After considering the taxpayer's protest, including any matters presented at such a conference, the department or its agent shall issue a final ruling thereon which shall be mailed to the taxpayer. The tax shall be due and payable upon the date the assessment becomes final unless the taxpayer petitions the Kentucky Tax Commission for a review thereof as provided in subsection (2).

(2) Within fifteen days after an unprotested assessment by the Department of Revenue has become final, or within fifteen days from the date of notice of a final ruling by the Department of Revenue on a protested assessment, or within fifteen days from the date of notice of any final ruling, order or finding of the Department of Revenue, the taxpayer may petition the Kentucky Tax Commission for a review of the final action of the department. The petition shall be filed in quadruplicate and shall in a concise manner state the

issue or issues involved, the facts, the basis of the taxpayer's contention, the assessment or portion thereof being protested, and, if desired, a request for a formal or informal hearing. When an assessment by the Department of Revenue is protested, the commission may order the department to certify the unprotested portion immediately and the taxes on the unprotested portion shall be paid in the usual manner and time. When the protest is finally disposed of, the department shall further certify any additional assessment provided for in the commission or court order. A copy of the final decision of the commission shall be mailed to the taxpayer after it has considered all of the evidence and facts presented. If the commission reviews an assessment, the taxes determined to be owing shall be due and payable thirty days after the date of notice of the decision of the commission. (1958, c. 69, § 1)

DOMESTIC BANK DEPOSITS TAXATION

132.030 [4019a-1; 4019a-2] **Domestic Bank Deposits Tax.** (1) Every person having on September 1 of any year a deposit in any bank, trust company or combined bank and trust company organized under the laws of this state, or in any national bank of this state, shall pay an annual tax to the state equal to one-thousandth of one per cent upon the amount of the deposit, and no deduction therefrom shall be made for any indebtedness. The tax shall be paid to the Department of Revenue by the bank or company with which the deposit is made, as the agent of the depositor, on or before November 1 next following the date of the report provided for in KRS 132.040.

(2) No other tax shall be assessed by the state or any county, city or other taxing district on such deposits or against the depositor on account of such deposits. (1949 ex. s., c. 4, § 1; 1960, c. 186, Art. I, § 1; effective June 16, 1960)

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.

National Distillers Products Corp. v. Board of Education of Franklin County ex rel. Reeves, 256 S. W. (2d) 481. Under statute permitting deferment of payment of ad valorem liquor taxes on each September 1st assessment of whiskey in certain instances, tax rate levied for school purposes in calendar year after each September 1st assessment data was applicable, and not tax rate levied prior to September 1st assessment to whiskey held in bond after due date for payment of general ad valorem taxes. (March 27, 1953.)

Reeves et al. v. Jefferson County et al., 245 S. W. (2d) 606. Where State Tax Commission assessed distilled spirits in bonded warehouses for ad valorem property tax purposes at $42 per barrel after equalization, and such assessment was supported by essential findings and it was not shown that Commission arbitrarily abused discretion in making the assessment, petition seeking to compel reassessment on ground that assessment was arbitrary and at less than fair cash value of the spirits estimated at a price the spirits would bring at a fair voluntary sale as required by constitution and statutes, did not state a cause of action. (November 21, 1951.)

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 unless it has acquired a business situs without this state.

(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. 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. (1960, c. 186, Art. I, § 3)

School building bonds, KRS 162.190; 162.300.
School teachers college building bonds, KRS 162.350.
State warrant, 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.

Head v. Little, 312 Ky. 10, 226 S. W. (2d) 322. 1950. Minerals may be severed from the land by a lease and become a separate taxable estate.

1950. Where there is a severance of minerals under land, both lessors and lessees have a taxable interest therein. Ibid.

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. 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 the same shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loan or loans thereon granted by the United States Government or any agency thereof), and except that cities and counties may each impose an ad valorem tax of not exceeding five cents on each one hundred dollars of the fair cash value of all unmanufactured tobacco, and not exceeding fifteen cents on each one hundred dollars of the fair cash value of all other 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 or 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. (1948, c. 207; 1954, c. 159, § 1; effective during the taxable year 1955)

Kentucky & West Virginia Power Co. v. Holiday, 216 Ky. 78, 287, S. W. 212.

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.

United Shoes Machinery Corp. et al. v. McCracken County et al., 265 S. W. (2) 929. There shoe manufacturing machinery was owned by a corporation which was not engaged in manufacturing, it was subject to state and local taxation, although the machinery was leased to another corporation actually engaged in manufacturing shoes and was used by the lessee in such manufacture.

LEVY AND ASSESSMENT OF PROPERTY TAXES
(Affects Teacher Retirement)

132.215 Right to Receive Income; Basis of Assessment; Rate of Tax. (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 basis of the assessment value shall be the fair cash value.

(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 January 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. 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. (1946, c. 39; 1949, ex. s. c. 4, § 6; 1960, c. 186, Art. I, § 4; effective June 16, 1960)

132.260 [4777a-1; 4777a-2; 4777a-3; 4777a-5] **Property In Storage; Housetrailers; Report; Right to Inspect.** (1) Every warehouse company and every person engaged in the business of furnishing storage for personal property shall by February 1, 1961, and February 1 of each year thereafter, make a report to the county tax commissioner, giving, as far as possible, accurate and complete information as to all property held by them on January 1, 1961, and January 1 of each year thereafter, and the names and residences of the owners of all property so held on that date.

(2) Every person providing rental space for the parking of housetrailers shall by February 1, 1961, and by February 1 of each year thereafter, report the name of the owner and type and size of all housetrailers not registered in this state under KRS 186.655

on his premises on January 1, 1961, and January 1 of each year thereafter to the county tax commissioner of the county in which the property is located.

(3) The reports required by subsections (1) and (2) shall be made in accordance with the forms prescribed by the Department of Revenue and shall be signed and verified by the chief officer or person in charge of the business.

(4) The county tax commissioner may make a personal inspection and investigation of property held in storage and premises on which housetrailers are located, for the purpose of identifying and assessing such property. No person in charge of such premises shall refuse to permit the inspection and investigation.

(5) Every operator of a trailer park or every owner of property used for such purposes when there is no operator, shall keep a register of all housetrailers which make use of the trailer park. Such register shall set forth:

(a) The name of the owner or occupier and all inhabitants of each housetrailer;

(b) The permanent and temporary post office addresses of all inhabitants;

(c) The license numbers of all units;

(d) The state issuing such license;

(e) The date of arrival and departure of each housetrailer;

(f) The place of employment of all occupants.

(6) The register provided for in subsection (5) of this section shall be open to inspection to the county clerk and the county tax commissioner and all law enforcement agencies at all times.

(7) Every operator of a trailer park or every owner of property used for such purposes when there is no operator, shall during December, January and February each year furnish weekly to the county tax commissioner a copy of the register. (1960, c. 186, Art. I, § 6; 1962, c. 262, § 3; effective June 14, 1962)

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 fifteen 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. (1952, c. 203, § 1; effective June 19, 1952)

Collection of taxes by sheriff, after county tax commissioner's lists received from county clerk, KRS 134.140.

Tax bills, how made out, KRS 133.220.

REAPPRAISAL OF PROPERTY

132.670 Reappraisal Projects. Whenever a city or county by order of its legislative body petitions the department for a reappraisal of the properties therein and the department, after investigation, determines that a reappraisal is necessary, the department shall, according to the comparative need therefor, provide personnel and other assistance to aid the city assessor or county tax commissioner in accomplishing this result. The Department of Revenue shall prescribe methods and specifications for the reappraisal of property. Personnel authorized to assist in making a city or county reappraisal under this section may be given the same authority as a deputy tax commissioner or deputy city assessor. Cities, counties, and other taxing districts may make appropriations from their general funds to share expenses incurred for such purposes by the department or for the purpose of employing other assistance in conducting such reappraisal projects. Whenever a county by order of its legislative body petitions the department for property identification mapping of the properties therein the department may provide personnel and other assistance to aid the county tax commissioner in accomplishing this result. The Department of Revenue shall prescribe methods and specifications for the mapping of property. Personnel authorized to assist in making property identification maps under this section may be given the same authority as a deputy tax commissioner. Cities, counties, and other taxing districts may make appropriations from their general funds to share expenses incurred for such purposes by the department or for the purpose of employing other assistance in conducting

such mapping projects. (1949, ex. s., c. 5, § 3; 1956, c. 5; 1960, c. 186, Art. I, § 15; effective June 16, 1960)

REVALUATION OF REAL PROPERTY

132.690 Quadrennial Revaluation of Real Property. (1) All taxable real property or interest therein subject to assessment by the county tax commissioner shall be revalued during the second year of each term of office by the county tax commissioner in accordance with standards prescribed by the Department of Revenue.

(2) The right of any individual to appeal the assessment on his property in any year as provided in KRS 133.120 shall in no way be affected by this section.

(3) Should the county tax commissioner fail to revalue property as required by this section the Department of Revenue shall have the authority to order an emergency revaluation in the same manner as provided for emergency assessments by KRS 132.660. Any county tax commissioner willfully violating the provisions of this section shall be subject to removal from office as provided by KRS 132.370 (3). (1960, c. 186, Art. I, § 16; effective December 4, 1961)

TAXATION ON HOUSETRAILERS

132.720 Definitions for KRS 132.260 and 132.720 to 132.750. As used in KRS 132.260 and 132.720 to 132.750, unless the context otherwise requires:

(1) "Housetrailer" means any housetrailer or mobile home which is a self-propelled or non-self-propelled vehicle or similar portable structure used or maintained for use, or so constructed as to permit its being used, as a conveyance upon public streets or highways, and designed to permit the occupancy thereof as a permanent or temporary dwelling place for one or more persons, or as a sleeping place for one or more persons, or the conduct of any business or profession, occupation or trade, or which is held for sale or lease, whether resting on wheels, jacks or other foundations.

(2) "Trailer park" means any "trailer coach park" or "trailer court" or "parking space" or area of land upon which one or more housetrailers are harbored, either free of charge or for revenue purposes.

(3) "Unit" means any single housetrailer or mobile home.

(4) "Permanent, fixed foundation" means a foundation permanent in nature which is so constructed as to be fixed upon the surface of the land. (1962, c. 262, § 1, effective June 14, 1962)

132.730 Housetrailers Subject to Ad Valorem Taxation; Exceptions. All housetrailers which are within this state on January 1, each year shall be subject to all ad valorem tax levies applicable to other tangible personal property subject to full state and local rates, except that any housetrailer not licensed in this state and not remaining within this state for a period of more than ninety days in any twelve-month period shall not have a taxable situs in this state unless an occupant is employed in this state. (1962, c. 262, § 2, effective June 14, 1962)

132.740 Notification of Assessment. Notwithstanding the provisions of KRS 132.485, the county tax commissioner shall notify the owner or occupier of each housetrailer of his assessment. (1962, c. 262, § 4, effective June 14, 1962)

132.750 When Housetrailer Classified as Real Estate. If the wheels or mobile parts have been removed from a housetrailer and the unit rests on a permanent, fixed foundation, it shall be classified as real estate. (1962, c. 262, § 5, effective June 14, 1962)

ASSESSMENTS IN ANNEXED TERRITORY

133.070 [4128-1; 4128-2] **Assessment Where Property Is Annexed to Another Civil Division.** Property in territory annexed by another civil division shall not be subject to ad valorem taxation in the annexing civil division until the assessment date next following the date of annexation. (1962, c. 28, effective June 14, 1962)

133.120 Appeal to Board of Supervisors from Assessment by Tax Commissioner; Review and Change of Assessment; Hearing; Assessment of Omitted Property; Appeal to Kentucky Tax Commission and to Courts; Payment of Tax On Uncontested Valuation; Duties of County Attorney. (1) Any taxpayer agrieved by an assessment made by the tax commissioner may appeal to the board of supervisors. A letter or other written petition stating the reasons for appeal shall be filed with the county clerk between the date the inspection period begins and the date the board of supervisors con-

venes. The board of supervisors may review and change any assessment made by the tax commissioner upon recommendation of the tax commissioner, Department of Revenue, county judge, chief finance officer of any city using the county assessment or the superintendent of any school district in which the property is located, provided, such recommendation is made to the board in writing specifying the property recommended for review. If the board of supervisors determines that any such assessment should be increased, then it shall give the taxpayer notice in the manner required by subsection (2) of KRS 132.450, specifying a date when the board will hear the taxpayer, if he so desires, in protest of such increase. (1950, c. 18, § 1)

Jones v. Records, 307 S. W. (2d) 205. Where a taxpayer's property was not the county school district on the assessment date, the county school taxes based upon that assessment date could not be lawfully assessed against the property.

Where the assessment of the county school taxes was invalid, the taxpayer could seek relief by injunction and was not required to follow the statutory procedure for review of assessments as provided by KRS 133.120.

Meyers v. Parkway Professional Center, Inc., 344 S. W. (2d) 389. 1961. Penalty imposed for delay in payment of taxes was in case of a new tax bill after reduced assessment following taxpayer's challenge, governed by special statutes regarding issuance of new tax bills after appeal has been finally determined, rather than KRS 134.390 respecting penalties for delinquent tax bills.

1961. Taxpayer which was partially successful in challenging assessment was entitled to tax discount on original payment made on taxpayer's valuation as required by statute. Ibid.

1961. Taxpayer which was partially successful in challenging assessment by taxing authority and which paid increased tax within thirty days after preparation of new tax bill was not subject to penalty. Ibid.

133.185 Tax Rate Not to Be Fixed Until Assessment Is Certified Under KRS 133.180. No tax rate for any taxing district imposing a levy upon the county assessment shall be determined before the assessment is certified by the Kentucky Tax Commission to the county court clerk as provided in KRS 133.180. (1942, c. 131, § 32; 1949, ex. s., c. 2, § 10)

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.

Cotten, 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.)

134.290 Compensation of Sheriff for Collecting State and County Taxes. (1) The sheriff shall be allowed by the Department of Revenue, for collecting state taxes, a commission of ten per cent upon the first ten thousand dollars in counties having an annual tax assessment of $35,000,000 or less and in all other counties ten per cent upon the first five thousand dollars, and in all counties four per cent upon the residue collected or accounted for and paid into the State Treasury in each year.

(2) He shall be allowed by the county treasurer, for collecting the county revenue, ten per cent upon the first ten thousand dollars collected, in counties having an annual tax assessment of $35,000,000 or less and in all other counties ten per cent upon the first five thousand dollars, and in all counties four per cent upon the residue.

(3) In counties containing a population of less than seventy-five thousand, the aggregate annual compensation of the sheriff for official services shall not exceed seven thousand two hundred dollars, independent of the compensation of legally authorized deputies and assistants and reasonable expenses as limited by the fiscal court. (1954, c. 179, § 1; 1962, c. 256)

Compensation for collecting school taxes, KRS 160.500.

DUTIES OF SHERIFF

134.300 [932; 4147] **Reports, Payments by Sheriff; Penalty.** (1) The sheriff shall, by the tenth day of each month, or more often if required by the county court to prevent the sheriff from having funds in his possession in excess of the amount of his bond, report under oath to the county court the amount of state and county taxes he has collected during the month preceding, together with all fines, forfeitures, or money on any other account that has been received or collected by him for the preceding month. He shall show in this report the amount collected for and belonging to each particular fund for which the revenue or money may be intended, and the disposition of such revenue or money collected by him. The reports shall be filed and recorded in separate books furnished by the county court for that purpose, and they shall be open for inspection in the office of the county clerk.

(2) At the time of making the report to the county court, the

sheriff shall pay to the county treasurer, or other officer designated by the fiscal court, all funds belonging to the county that were collected by him during the period covered in the report. He shall take a receipt from the county treasurer for the amount so paid, in duplicate, one duplicate to be retained by the sheriff and the other to be delivered by him to the county judge, who shall file it in his office.

(3) Any sheriff failing to pay over taxes collected by him and due the county, as provided by law, shall be required by the fiscal court to pay a penalty of one per cent for each thirty-day period or fraction thereof plus interest at the legal rate per annum on such taxes. The fiscal court in its settlement with the sheriff shall charge him with such penalties and interest.

(4) The county judge may grant an extension of time, not to exceed fifteen days, for filing the report required by subsection (1) and the reports for all other levies made by the fiscal court whenever, in his judgment, good cause therefor exists. The extension shall be in writing and shall be recorded in the office of the county court clerk. The extension when granted shall suspend the penalty and interest for the duration of the extension. The penalty and interest shall apply at the expiration of the extension. (1960, c. 186, Art. I, § 26)

134.310 [932; 1884; 4146; 4251] **Annual Settlement of Accounts of Sheriff with County; Exceptions; Appeals; Payment of Balance Due; Statements of Funds and Expenditures to be Filed; Deduction of Total Funds from Total Expenses; Allowance of Commissions.** (1) The sheriff shall annually settle his accounts for county and district taxes with the fiscal court, before making settlement with the Department of Revenue. At the regular October term each year the fiscal court shall appoint some competent person other than the Commonwealth's or county attorney to settle the accounts of the sheriff for money due the county or district. The report of this settlement shall be filed in the county clerk's office and approved by the county court. The settlement shall show the amount of poll tax and ad valorem tax collected, and an itemized statement of the money disbursed.

(2) The settlement shall be published for at least two weeks in a paper published and having general circulation in the county or, if there is no such paper, it shall be published by handbills posted

at the front door of the courthouse and at least three other public places in the county. The report of the settlement shall be subject to exceptions by the sheriff or by the county attorney, who shall represent the state and county, and the county court shall try and determine the exceptions.

(3) An appeal may be prosecuted by either party from the judgment of the county court on the settlement, in the same manner as provided by law for appeals from judgments of the quarterly court, except that the county attorney shall not be required to give an appeal bond; or actions may be instituted in any court of competent jurisdiction to correct the settlement. The settlement, when approved, shall be recorded in the county clerk's office.

(4) On the final settlement the sheriff shall pay to the county treasurer all money that remains in his hands, and take receipts as provided in KRS 134.300.

(5) In counties containing a population of less than seventy-five thousand, the sheriff shall file annually with his final settlement:

(a) A complete statement of all funds received by his office for official services, showing separately the total income received by his office for services rendered, exclusive of his commissions for collecting taxes, and the total funds received as commissions for collecting state, county and school taxes; and

(b) A complete statement of all expenditures of his office, including his salary, compensation of deputies and assistants, and reasonable expenses.

(6) There shall be deducted from the total of such expenses the total funds received by the sheriff's office, exclusive of commissions for collecting taxes. From the balance, if any, of such expenses, shall be deducted the commissions allowed for collecting state and county taxes as prescribed by subsections (1) and (2) of KRS 134.290. The balance, if any, of the expenses shall be paid to the sheriff from the commissions allowed to him for the collection of school taxes, but in no event shall the amount of such commissions exceed four per cent of the total amount of school taxes collected by him. The amount paid the sheriff for collecting school taxes shall be prorated among the school districts in the county in the proportion that the amount of school taxes collected from each district bears to the total school taxes collected. (1954, c. 179, § 2)

LIEN AGAINST 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 KRS 355, Art. 3, 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. (1962, c. 210, § 22)

TIME PAYMENT TAXES

136.050 [4086; 4091; 4103] **Time of Payment of Corporation Property and Franchise Taxes; Interest; Penalties.** (1) Except where otherwise specially provided, all corporations required to make reports to the Department of Revenue shall pay all taxes due the state from them into the State Treasury at the same time as natural persons are required to pay taxes, and when delinquent shall pay the same rate of interest and penalties as natural persons who are delinquent.

(2) All state taxes assessed against any corporation under the provisions of KRS 136.120 to 136.200 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. The state, county, city, school and other taxes found to be due on any protested assessment or portion thereof shall begin to bear legal interest on the sixty-first day after the Kentucky Tax Commission acknowledges receipt of a protest of any assessment or enters an order to certify the unprotested portion of any assessment until paid, except that in no event shall interest begin to accrue prior to January 1 following March 31 of the year in which the report is due. Every corporation so assessed that fails to pay its taxes when due shall be deemed delinquent, a penalty of ten per cent on the amount of the tax shall attach, and thereafter the tax shall bear interest at the rate of ten per cent per annum. (1958, c. 69, § 2)

PUBLIC SERVICE FRANCHISE TAX

136.120 [842a-3; 4077; 4082] **Public Service Corporation Property Tax; Classification; Assessment; Certification.** (1) Every railway company, sleeping car company, chair car company, dining car company, gas company, water company, ferry company, bridge company, street railway company, interurban electric railroad company, express company, electric light company, electric power company, telephone company, telegraph company, bus line company, regular route common carrier trucking company, air transport company,

pipeline company, common carrier water transportation company, and every other like company or business performing any public service shall annually pay a tax on its operating property to the state and to the extent such property is liable to taxation shall pay a local tax thereon to the county, incorporated city, and taxing district in which its operating property is located.

(2) The property of such taxpayers shall be classified as operating property, nonoperating tangible property, and nonoperating intangible property. Non operating intangible property within the taxing jurisdiction of the Commonwealth shall be taxable for state purposes only at the same rate as the intangible property of other taxpayers not performing public services, and operating property and nonoperating tangible property shall be subject to the state and local taxes at the same rate as the tangible property of other taxpayers not performing public services.

(3) The Department of Revenue shall have sole power to value and assess all of the property of every corporation, company, association, partnership, or person performing any public service, including those enumerated above and all others to whom this section may apply, whether or not such operating property, nonoperating tangible property, or nonoperating intangible property has heretofore been assessed by said department, and shall, except as provided in subsection (4) of this section, allocate such assessment as provided by KRS 136.170, and shall certify operating property liable to local taxation and nonoperating tangible property to the counties, cities, and taxing districts as provided in KRS 136.180. All of the property assessed by the department pursuant to this section shall be assessed as of December 31 each year for the following year's taxes, and the lien therefor shall attach as of such assessment date. Provided, however, that in the case of a taxpayer whose business is predominantly nonpublic service and the public service business in which he is engaged is merely incidental to his principal business, the department shall in the exercise of its judgment and discretion determine, from evidence which it may have or obtain, what portion of the operating property is devoted to the public service business subject to assessment by the department under this section and shall require the remainder of the property not so engaged to be assessed by the local taxing authorities.

(4) (a) The Department of Revenue shall likewise have sole

power to value and assess all the property within the taxing jurisdiction of this Commonwealth of every refrigerator car company, tank car company, coal car company, every like car company, and every irregular route common carrier truck company and may, in determining the proportion of the value of such property within the taxing jurisdiction of Kentucky, take into consideration the car or truck mileage made by the cars or trucks of such companies. The department shall not certify the assessment of the rolling stock of such companies to any county, city, or taxing district, but shall apportion and certify the operating property, other than rolling stock, to the counties, cities, and taxing districts where such property is located. The rolling stock of such companies shall be taxable for state purposes only at the rate of two dollars and fifty cents upon each one hundred dollars of value, and shall not be subject to taxation by a county, city, or other taxing district.

(b) The property of taxpayers within the meaning of paragraph (a) of this subsection shall likewise be classified as operating property, nonoperating tangible property, and nonoperating intangible property. The nonoperating intangible property of the companies within the meaning of this subsection which are within the taxing jurisdiction of the Commonwealth shall be taxable for state purposes at the same rate as the intangible property of nonpublic service taxpayers. (1962, c. 29, § 6, effective February 27, 1962)

Texas Co. v. Com., 303 Ky. 590, 198 S. W. (2d) 316. A pipe line company having the statutory right of eminent domain, is possessed of a special privilege, which makes it subject to a franchise tax, and it is immaterial whether or not this privilege is exercised.

CERTIFICATES OF EVALUATIONS

136.180 [4083; 4084; 4102] **Notice and Certification of Valuation.** The Department of Revenue shall, immediately after fixing the assessed value of the operating property 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 of the operating property or nonoperating tangible property 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. (1960, c. 186, Art. II, § 7; effective March 25, 1960)

TAXING DISTRICT BOUNDARIES

136.190 [4099; 4399-16] **Boundary Report of Cities and Taxing Districts.** (1) The superintendent of schools in each district in which any individual, group of individuals or corporation, operates public utility or other franchise taxpaying property assessed under KRS 136.120 shall, on or before the first day of January, 1957, furnish to the county clerk of the county in which the district is situated, to each franchise taxpayer within the district, and to the Department of Revenue the boundary of his school district. The superintendent of schools in each district in which any franchise-paying corporation, individual, or group of individuals operates shall, on or before the first day of January, 1958, and each year thereafter, furnish to the county clerk, to each franchise taxpayer within the district, and to the Department of Revenue any changes made in the boundary of his school district during the immediate preceding twelve months.

(2) The engineer of cities of the first class and the city clerk of cities of the second, third, fourth, fifth, and sixth classes shall notify the county clerk, each franchise taxpayer within the city, and the Department of Revenue of their boundaries in the same manner as required of the superintendent of schools in subsection (1).

(3) The responsible governing official or the chairman of the governing body of any taxing district other than the county, school district, or city shall notify the county clerk, each franchise taxpayer within the district, and the Department of Revenue of their boundaries in the same manner as required of the superintendent of schools in subsection (1). (1956, c. 170; 1960, c. 186, Art. II, § 8; effective March 25, 1960)

RAILROAD BRIDGE ASSESSMENT

136.200 [4102] **Allocation of Railroad Bridge Assessment.** The assessment of railroad bridges spanning any river that constitutes a boundary of the state shall be allocated to 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. (1960, c. 186, Art. II, § 9; effective March 25, 1960)

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.

Banks and Trust Companies, Ch. 287.

136.280 Reports of Banks and Trust Companies; Assessment, Equalization and Collection of Taxes on Shares and Tangible 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 tangible property in this state. (1949, ex. s., c. 4, § 18)

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)

RESEARCH ON EFFECTIVE USE OF COAL

152.320 Establishment of Research Program. The department shall formulate and execute an extensive overall research program designed to develop new and more effective uses for coal and other natural resources and to improve and expand existing uses for coal

and other natural resources. (1960, c. 127, § 2; effective June 16, 1960)

152.370 Advisory Committee. (1) To advise the department on the program established by KRS 152.310 to 152.390, the Resources Research and Development Advisory Committee is established. One of the members shall be the Superintendent of Public Instruction, and one shall be a representative of organized labor, to be appointed by the Governor. Members representing the coal industry and other members shall be appointed by the Governor.

(2) The members of the committee shall receive no salary for services performed on the committee, but may be reimbursed for necessary travel expenses incurred in connection with attendance at official meetings of the committee or of subcommittees. (1960, c. 127, § 7; effective June 16, 1960)

152.390 Extension of Program Into State Schools. In cooperation with the Superintendent of Public Instruction and the governing bodies of the state institutions of higher learning, the department shall, wherever feasible, make plans and provisions for extending the program established by KRS 152.310 to 152.390 into the regular courses of instruction in chemistry in the public high schools and junior colleges, and state universities and colleges. (1960, c. 127, § 9; effective June 16, 1960)

STATE THEATRE

153.110 State Theatre of Kentucky; Activities; Accreditation of College Credits. The Pioneer School of Drama, Inc., known as the Pioneer Playhouse throughout the whole of these United States, is hereby designated and declared to be the State Theatre of Kentucky. The State Theatre, so designated and declared, may be engaged to present public plays and performances at any and all of the state parks throughout the Commonwealth, may create and present public plays and performances throughout the Commonwealth and may meet with regional groups to help develop ideas in drama, pageants, and centennials, help in tourist promotion, create a playwrights' center and art colony, and offer accreditation of college credits through the state colleges and university, upon and with the approval of the State Department of Education. (1962, c. 148, § 1; effective June 14, 1962)

153.120 Tuition; Admission; Performances in State Parks; Expenditures. (1) The State Theatre may charge tuition for attending the school of drama and may charge the public admission for attending the plays and performances, and this shall be the primary income of the State Theatre.

(2) The Commissioner of Parks is authorized to enter into such contracts and make such guarantees to the State Theatre for the presentation of their plays in state parks as shall be approved by the Department of Finance.

(3) The income so received shall be used by the State Theatre to meet the cost of expenses of the productions and the operation of the school, the depreciation or replacement of equipment, and reasonable compensation to the officers and employes of the State Theatre. (1962, c. 148, § 2; effective June 14, 1962)

153.130 Gifts and Scholarships. The Commissioner of Parks is authorized to accept gifts, donations, bequests and scholarships for the use and benefit of the State Theatre. (1962, c. 148, § 3; effective June 14, 1962)

153.140 Powers of State Theatre. Nothing in KRS 153.110 to 153.140 shall be construed as prohibiting the State Theatre from:

(1) Receiving gifts, donations, bequests and scholarships directly from a benefactor;

(2) Receiving a direct appropriation from the General Assembly; or

(3) Presenting public plays and performances at places other than the various state parks. (1962, c. 148, § 4; effective June 14, 1962)

LIBRARY EXTENSION

171.130 Department of Libraries; State Librarian. The Department of Libraries is established. The department shall be headed by a State Librarian who shall be appointed by and serve at the pleasure of the Governor, and who shall have had technical training in the field of library science. (1962, c. 106, Art. VIII, § 2; effective June 14, 1962)

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.

LIBRARY SERVICE FOR THE BLIND

171.145 Authority to Provide Library Services for Blind. For the benefit of blind readers of Kentucky, the library extension division may make available books and other reading matter in Braille, talking books or any other medium of reading used by the blind. To this end, the division is authorized to provide library services for the blind of the Commonwealth through contract, agreement or otherwise with the Library of Congress or any regional library thereof. (1960, c. 58; effective June 16, 1960)

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 buses 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, § 2)

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. Note—This section was ruled unconstitutional by the Attorney General on the grounds it violated "Good Roads" Amendment to the State Constitution. Therefore, the section has been omitted from this edition.

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 employes 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 truck or bus and on the rear door 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, § 7; 1944, c. 59, § 1)

186.060 [2739g-7] **Motor Vehicles Owned by Governmental Units.** (1) Applications for registration of motor vehicles owned exclusively by a 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 the official number plate described in KRS 186.240 (3), 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.

(2) After such registration of any vehicle owned exclusively by the state and after issuance of such number plate for such vehicle so owned, no subsequent registration or renewal of same, and no subsequent renewal of a number plate of said vehicle shall be necessary so long as said vehicle is owned exclusively by the state, except in the case of loss or destruction of said license plate. In the event of such loss or destruction, said number plate shall be replaced in the same manner as if no plate had ever been issued.

(3) No person shall use on a motor vehicle, not exclusively owned 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. (1946, c. 122; 1948, c. 126, §§ 1, 2, 3)

SCHOOL AND CHURCH BUS DRIVERS

186.600 [2739m-38] **Age Limit for Drivers of School Buses and**

Public Passenger-Carrying Vehicles. 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 or from school, or a church bus for the transportation of children to or from church, or drive a motor vehicle while it is in use as a public passenger-carrying vehicle. (1944, c. 60; 1948, c. 208, § 9; 1950, c. 176, § 4; 1960, c. 123, § 1; effective June 16, 1960)

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] **Motor Vehicles to Carry and Use Required Flares or Similar Signals.** (1) No person shall operate any motor vehicle upon a highway outside of a business or residence district at any time from a half-hour before sunset to a half-hour before sunrise unless that vehicle carries the number and type of flares, electric lanterns or other signals which the Department of Motor Transportation shall by regulation require.

(2) Whenever any motor truck and its lighting equipment are disabled during a period when lighted lamps must be illuminated on vehicles and the truck cannot immediately be removed from the main traveled portion of a highway outside of a business or residence district, the person in charge of the vehicle shall cause to be placed upon the highway such flares, lanterns and other signals as the Department of Motor Transportation shall by regulation require, and such flares, lanterns or other signals shall be placed at such distances and in such positions as required by such regulations. (1962, c. 91, § 1, effective June 14, 1962).

189.120 [2739g–28a; 2739g–28b] **Safety Glass Required in Motor Vehicles.** (1) No person shall sell any new motor vehicle in this state nor shall any new motor vehicle be registered in this state unless the vehicle is equipped with safety glass wherever glass is used in the windshield, doors or windows.

(2) As used in this section, "safety glass" means any product

composed of glass, so manufactured, fabricated, or treated as substantially to prevent shattering and flying of the glass when struck or broken, or such other or similar product as may be approved by the Department of Public Safety.

(3) The Department of Public Safety shall compile and publish a list of types of glass by name approved by the department as meeting the requirements of this section, and shall cause a copy of the list to be furnished to each county court clerk. No motor vehicle which is subject to the provisions of this section shall be registered unless it is equipped with an approved type of safety glass as required by this section, and the Department of Public Safety may prescribe and enforce such regulations as are necessary to effectuate this section. If the rules of the Intertsate Commerce Commission differ the common carriers may elect to apply the rules of the Interstate Commerce Commission. (1948, c. 171, § 1; 1956, c. 136; corrected, 1958, c. 126, § 24)

189.370 [2739g–46a; 2739g–691] **Passing stopped school or church bus prohibited.** (1) Whenever any school bus or church bus used in the transportation of children is stopped upon a highway for the purpose of receiving or discharging passengers, the 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 bus has completed receiving or discharging passengers and has been put into motion.

(2) Subsection (1) shall be applicable only in the event the bus bears on the front and rear a plainly visible sign containing the words "School Bus" or "Church Bus," whichever is appropriate, in letters not less than six inches in height, which can be covered when the vehicle is not in use as a school or church bus. (1950, c. 96, § 1; 1960, c. 123, § 2; effective June 16, 1960)

189.375 Stopping School Bus. No school bus shall be licensed or operated for the transportation of school children unless it has a folding sign on the driver's side thereof, with letters at least six inches in height and displaying the word "Stop" on both sides. Upon stopping the school bus the driver shall open out the sign so that it will be plainly visible to traffic approaching from both directions. No driver shall stop a school bus for loading or unloading purposes in a no passing area, such as a

hill or curve, which does not afford reasonable visibility to approaching motor vehicles from both directions.
(1958, c. 110)

189.370 **Greyhound Corporation v. White, 323 S. W. (2d) 578.** An action by an automobile passenger for personal injuries sustained when an automobile in which they were riding crashed into the rear end of the defendants' school bus which had stopped in the left traffic lane of highway and completely blocked it near point where righthand lane was partially blocked by a disabled passenger bus, evidence presented the jury questioned as to negligence of school bus driver in failing to pull completely off the highway by using gravel strip along left edge of the highway for purpose of picking up children.

There is a common-law duty upon everyone to exercise ordinary care not to injure other people.

"Ordinary care" is such care as a reasonably prudent person would exercise under the circumstances. See Slusher v. Brown, 323 S. W. (2d) 870 for this definition.

189.380 [2739g–50; 2739g–69p] **Signals.** (1) No person shall turn a vehicle from a direct course upon a highway unless and until such movement can be made with reasonable safety, and only after a clearly audible signal has been given by sounding the horn if any pedestrian shall be affected by the movement. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided in the event any other vehicle may be affected by such movement.

(2) A signal of the intention to turn right or left shall be given continuously for not less than the last one hundred feet traveled by the vehicle before turning.

(3) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the operator of any vehicle immediately in the rear when there is opportunity to give such signal.

(4) All signals required herein shall be given either by means of the hand and arm or by a signal lamp or lamps or a mechanical signal device, except that the operator of a motor vehicle used for the transportation of persons for hire with taxicabs excluded, the operator of a school or church bus, and the operator of any vehicle so constructed or loaded that a hand and arm signal would not be visible both to the front and rear of such vehicle shall indicate an intention to turn by use of a signal lamp or lamps or mechanical signal device and must indicate an intention to stop or suddenly decrease speed by illuminating at least one red or yellow light with the word "Stop" on it on the rear of the vehicle.

(5) All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner, and such signals shall indicate as follows:

(a) left turn—hand and arm extended horizontally;

(b) right turn—hand and arm extended upward;

(c) stop or decrease speed—hand and arm extended downward.

(1950, c. 54, 1960, c. 123, § 3; effective June 16, 1960)

Davidson v. Moore, 340 S. W. (2d) 227. 1960. In action against overtaking motorist, for injuries and damage sustained when plaintiff's farm tractor overturned, whether plaintiff gave proper signal of his intention to make left turn was question for jury.

1960. Intention of Act dealing with traffic regulations and equipment of vehicles was to exclude farm tractors from rigid requirements as to equipment, but intention was not that tractors could operate on highways without regard to rules of safety, including duty to give proper signals, but even if Act had so intended, operator of such vehicle would not be relieved, of all obligation to other users of highway. Ibid.

1960. In action against overtaking motorist for injuries and damage sustained when plaintiff's farm tractor overturned, testimony from which jury might have believed that a proper signal for left turn was not given by plaintiff and that defendant also was negligent in attempting to pass near intersection warranted instruction concerning contributory negligence. Ibid.

189.450 [2739G–48] **Stopping, Standing or Repairing Vehicle on Highways.** (1) No person shall stop a vehicle, leave it standing or cause it to stop or to be left standing upon the main traveled portion of a highway; provided, however, that this section shall not be construed to prevent parking off the main traveled portion of a highway or street in a city or suburban area where such parking is otherwise permitted. This subsection shall not apply to:

(c) Vehicles operating as common carriers of passengers for hire and school buses taking passengers on such vehicles or discharging passengers therefrom, provided that no such vehicles shall stop for such purposes in a no-passing area as described in KRS 189.340 (5). (1962, c. 288, § 2, effective June 14, 1962).

Greyhound Corporation v. White, 323 S. W. (2d) 578. An action by an automobile passenger for personal injuries sustained when an automobile in which they were riding crashed into the rear end of the defendants' school bus which had stopped in the left traffic lane of highway and completely blocked it near point where righthand lane was partially blocked by a disabled passenger bus, evidence presented the jury questioned as to negligence of school bus driver in failing to pull completely off the highway by using gravel strip along left edge of the highway for purpose of picking up children.

There is a common-law duty upon everyone to exercise ordinary care not to injure other people.

"Ordinary care" is such care as a reasonably prudent person would exercise under the circumstances. See Slusher v. Brown, 323 S. W. (2d) 879 for this definition.

Gardner v. Switzer, 347 S. W. (2d) 84. 1961. Motorist, whose automobile was struck from behind while stopped on main-traveled portion of Louisville street to pick up passenger, was not negligent in view of Louisville ordinance permitting motorist to stop vehicle to receive or discharge passengers.

189.540 [2739g–69m] **Regulations for School Buses.** (1) The State Board of Education by and with the advice of the State Police 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 and Church Buses to Stop at Railroad Crossings.** Operators of motor vehicles transporting children to or from school or church shall stop their motor vehicles before crossing over any steam or electric interurban railroad main tracks at a grade. The stop shall be made 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. (1960, c. 123, § 4; effective June 16, 1960)

EDUCATION OF ECONOMIC SECURITY EMPLOYES

195.105 Training Program Authorized; Research Assignment; Classification; Compensation; Contract. (1) The Commissioner of Economic Security in coordination with the Department of Personnel is authorized to establish formal training programs within the Department of Economic Security or within any of the bureaus, divisions or sections of the department for the training of necessary personnel for the administration of the programs of the department. When courses of study, applicable to the program processes of the department, are not available through departmental instruction, arrangements may be made for the training of employes in any public or private school or institution having available facilities for that purpose and such training shall

be deemed to be a part of the departmental training program. Training of employes in public or private schools or institutions for this purpose shall be deemed a part of research assignments to be completed during the period of study, such assignments to relate directly to the work assignment of the employe. After consulting with the Department of Personnel, position classifications in the research series shall be established for employes on such work study assignments, and funds of the department may be used to pay salaries commensurate with the appropriate classification while the employe is receiving such training.

(2) Any employe who is paid a salary while receiving such training shall be required to enter into a contract, prior to receiving the training, that he will complete a specified work assignment, and that unless he continues in the employ of the department for at least a period equivalent to the training period, immediately following the completion of such training, the state will hold a claim against him for the amount of salary paid during the training period, and he will repay to the department the sum paid to him by the department during the period of his training. (1962, c. 85, § 1, effective June 14, 1962).

DAY-CARE CENTERS

199.892 Declaration of Legislative Intent. In enacting legislation relating to the regulation of day-care centers, it is the intention of the General Assembly to enable the Department of Child Welfare to qualify to receive Federal funds under provisions of the Federal Social Security Act and to provide for effective regulation of day-care centers. (1962, c. 196, § 1, effective June 14, 1962).

199.894 Definitions for KRS 199.892 to 199.896. As used in KRS 199.892 to 199.896, unless the context otherwise requires:

(1) "Department" means the Department of Child Welfare;

(2) "Commissioner" means Commissioner of Child Welfare;

(3) "Day-care center" means any child-care facility, other than those set out in KRS 158.300, which provides full- or part-time care, day or night, to at least four children not related to the operator of the child-care facility by blood, marriage or adoption. Day-care center shall not include any child-care facility operated by a religious organization while religious services are being conducted. (1962, c. 196, § 2, effective June 14, 1962)

199.896 License Required; Application; Fee; Disposition of Receipts. (1) No person, association or organization shall conduct, operate or maintain any day-care center without obtaining a license as provided in KRS 199.892 to 199.896.

(2) The commissioner may adopt regulations relating to license fees and may establish standards of care and service for the day-care center.

(3) If the day-care center does not meet the standards prescribed for licensing by the commissioner, a provisional license may be issued and remain in effect for a period prescribed by the commissioner.

(4) Each initial application for a license shall be made to the department and shall be accompanied by a fee of not more than thirty-five dollars and shall, excepting provisional licenses, be renewable upon expiration and reapplication when accompanied by a fee of not more than ten dollars. Regular licenses and renewals thereof shall expire one year from their effective date.

(5) No day-care center shall be refused a license or have its license revoked for failure to meet standards set by the commissioner until after the expiration of a period not to exceed twelve months from the date of the first official notice that the standards have not been met.

(6) All fees collected under the provisions of KRS 199.892 to 199.896 shall be paid into the State Treasury and credited to a special fund for the purpose of administering KRS 199.892 to 199.896 including the payment of expenses of and to the participants in child-care workshops. Such funds collected are hereby appropriated for the use of the department. (1962, c. 196, § 3, effective June 14, 1962)

199.900 Training Programs Authorized; Research Assignment; Classification; Compensation; Contract. (1) The Commissioner of Child Welfare in coordination with the Department of Personnel is authorized to establish formal training programs within the Department of Child Welfare or within any of the divisions or sections of the department for the training of necessary personnel for the administration of the programs of the department. When courses of study, applicable to the program processes of the department, are not available through departmental instruction, arrangements may be made for the training of employes

in any public or private school or institution having available facilities for that purpose and such training shall be deemed to be a part of the departmental training program. Training of employes in public or private schools or institutions for this purpose shall be deemed a part of research assignments to be completed during the period of study, such assignments to relate directly to the work assignment of the employe. After consulting with the Department of Personnel, position classifications in the research series shall be established for employes on such work study assignments, and funds of the department may be used to pay salaries commensurate with the appropriate classification while the employe is receiving such training.

(2) Any employe who is paid a salary while receiving such training shall be required to enter into a contract, prior to receiving the training, that he will complete a specified work assignment, and that unless he continues in the employ of the department for at least a period equivalent to the training period, immediately following the completion of such training, the state will hold a claim against him for the amount of salary paid during the training period, and he will repay to the department the sum paid to him by the department during the period of his training. (1962, c. 85, § 2, effective June 14, 1962)

199.990 Penalties. (10) Any person who violates any of the provisions of KRS 199.896 shall be fined not less than twenty dollars nor more than two hundred dollars, or imprisoned for not more than thirty days, or both. (1962, c. 196, § 4, effective June 14, 1962)

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, may establish county children's bureaus. When the fiscal court has authorized the establishment of such 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.

DUTIES OF HEALTH OFFICERS

212.210 [2054a–14; 2057] **Powers and Duties of all Health Boards.** (1) The State Board of Health and the local boards of health may examine into all nuisances, sources of filth and causes of sickness that may, in their opinion, be injurious to the health of the inhabitants in any county in this state, or in any vessel within any harbor or port in any county in this state. Whenever any such nuisance, source of filth or cause of sickness is found to exist on any private property, or in any vessel within any port or harbor in any county in this state, or upon any watercourse in this state, the State Board of Health or the local board of health may order, in writing, the owner or occupant thereof, at his own expense, to remove the same within twenty-four hours, or within such reasonable time thereafter as the board may order.

(2) If drinking water used by school children is found to be dangerous to their health, the local board of health or State Board of Health may order that a supply of pure water be furnished at the expense of the county or city board of education.

(3) If in the opinion of the local board of health or State Board of Health a school building is constructed in violation of law and is found to be unsanitary or unsafe for the housing of children, the local board of health or State Board of Health may institute an action in the circuit court of the county where the building is situated, and the court, after due hearing and verifying the facts, may order a safe and sanitary school building to be erected within a reasonable time by the county or city board of education in accordance with the laws of the state governing the erection of schoolhouses and the control of disease, and the rules and regulations of the State Board of Health.

COMPULSORY IMMUNIZATION

214.032 Definition for KRS 214.034 and 214.036. As used in KRS 214.034 and 214.036 the term "child" means a person under 18 years of age. (1962, c. 95, § 1, effective June 14, 1962)

214.034 Immunization of Children. Except as otherwise provided in KRS 214.036, all parents, guardians, and other persons having care, custody or control of any child shall have the child immunized against diphtheria, tetanus, poliomyelitis and pertussis within twelve months after birth. Such persons shall also have

booster immunizations administered to the child in accordance with the regulations of the State Board of Health. (1962, c. 95, § 2, effective June 14, 1962)

214.036 Exception to Immunization Requirement. Nothing contained in KRS 158.035 or 214.032 to 214.036 shall be construed to require the immunization of any child at a time when, in the written opinion of his attending physician, such immunization would be injurious to the child's health. Nor shall KRS 214.034 be construed to require the immunization of any child whose parents are members of a nationally recognized and established church or religious denomination, the teachings of which are opposed to medical immunization against disease, and who object in writing to the immunization of such child on that ground. Provided, however, that in the event of an epidemic in a given area, the State Board of Health may, by emergency regulation, require the immunization of all persons within the area of epidemic, against the disease responsible for such epidemic. (1962, c. 95, § 4, effective June 14, 1962)

214.040 [4608] **Smallpox; vaccination of adults.** All persons of the age of twenty-one years and over who have not been successfully vaccinated for smallpox shall procure their own vaccination or revaccination.

214.050 [4609] **Minors to be vaccinated.** All parents, guardians and other persons having the care, custody or control of any minor, or who have a minor in their employ, shall have the minor vaccinated for smallpox within twelve months after birth or after the minor comes under their care, custody or control.

214.060 [4610] **Persons Coming Into State to Be Vaccinated.** All persons coming into this state to abide or become citizens shall, if not previously vaccinated for smallpox, procure the vaccination of themselves and any children under their care or control within six months after coming into the state.

214.990 Penalties. (4) Any person who fails or refuses to comply with any of the provisions of KRS 214.040 to 214.060 shall be fined not less than five dollars nor more than twenty dollars for each failure or refusal.

(15) Any person who violates any provision of KRS 214.034 shall be fined not less than ten dollars nor more than one

hundred dollars, or imprisoned for not less than ten days nor more than sixty days, or both. (1962, c. 95, § 5, effective June 14, 1962)

STATE TUBERCULOSIS HOSPITAL COMMISSION

215.012 Training Schools For Commission Employes. The commission is authorized to establish training schools at or within any of the hospitals operated by the commission, or at any hospital or hospitals cooperating in a joint program with the commission, for the training of necessary personnel for the hospitals, or may arrange for the training of employes or prospective employes in any public or private school or institution having available facilities for that purpose. Funds of the commission may be used to pay salaries to employes, or to pay tuition and subsistence for employes or prospective employes, while receiving such training. Any employe or prospective employe who is paid a salary, or for whom tuition and subsistence are furnished, while receiving such training, shall be required to enter into a contract, prior to receiving such training, that unless he accepts and continues in any employment offered by the commission for at least a period equivalent to the training period, immediately following the completion of such training, he will reimburse to the commission the sum paid to or for him by the commission during or for the period of training. (1960, c. 23; effective June 16, 1960)

FIRE DRILL

227.220 Duties of Commissioner Relating to Fire Loss. (2) The commissioner is authorized to:

(e) Direct and assist owners of educational institutions, places of public assembly, institutional buildings, public buildings, factories, business buildings, or other places where persons congregate, in the instruction of fire prevention, and the holding of fire drills. (1954, c. 201, § 3)

BOILER SAFETY

236.005 Title. KRS 236.005 to 236.150 shall be known and may be cited as the Boiler Safety Act, and, except as otherwise provided therein, shall apply to all boilers. (1962, c. 89, § 1, effective June 14, 1962)

236.010 Definitions. As used in this chapter, (1) "Boiler"

or "boilers" shall mean and include steam or vapor boilers, hot water heating boilers and hot water supply boilers.

(2) "Commissioner" means the Commissioner of Public Safety.

(3) "Department" means the Department of Public Safety.

(4) "ASME" means American Society of Mechanical Engineers. (1962, c. 89, § 1, effective June 14, 1962.

236.020 Board of Boiler Rules; Membership; Meeting; Quorum; Expenses. (1) In the Department of Public Safety there shall be a Board of Boiler Rules, which shall hereafter be referred to as the board, consisting of five members including the commissioner who shall serve as chairman. The other members shall be appointed to the board by the Governor; one for a term of one year, one for a term of two years, one for a term of three years and one for a term of four years, or until their successors are appointed and qualified. At the expiration of their respective terms of office they, or their successors identifiable with the same interest respectively as provided in this section, shall be appointed for terms of four years each. The Governor may at any time remove any member of the board. Upon the death or incapacity of any member the Governor shall fill the vacancy for the remainder of the vacated term with a representative of the same interests with which his predecessor was identified. Of these four appointed members, one shall be a practical steam operating engineer of high pressure boilers, or any other representative of owners and users of high pressure boilers within the state; one shall be a representative of the boiler manufacturers within the state; one shall be a representative of a boiler insurance company licensed to do business within the state; and one shall be a representative of the boilermakers within the state. The board shall meet at least four times each year at the Capitol or other place designated by the board. No approval, decision or ruling of the board shall be effective unless supported by the vote of at least three members thereof.

(2) The members of the board shall serve without salary and shall receive their actual necessary expenses, incurred while in the performance of their duties as members of the board, to be paid in the same manner as in the case of other state officers. (1962, c. 89, § 2, effective June 14, 1962)

236.030 Orders, Rules, Regulations of Commissioner. After reasonable notice and opportunity to be heard, the Commissioner of

Public Safety, upon advisement by the board, shall by general order, rule or regulation, fix reasonable standards for the safe construction, installation, inspection and repair of boilers in this state. Orders, rules and regulations prescribed by the board shall be enforced by the Department of Public Safety. (1962, c. 89, § 3, effective June 14, 1962)

236.040 Conformity Required. No boiler which does not conform to the rules and regulations formulated by the commissioner governing new construction and installation shall be installed and operated in this state after twelve months from the date upon which the first rules and regulations under KRS 236.005 to 236.150 pertaining to new construction and installation shall have become effective. (1962, c. 89, § 4, effective June 14, 1962)

236.050 Maximum Workable Pressure. (1) The maximum allowable working pressure of a boiler carrying the ASME Code symbol shall be determined by the applicable sections of the code under which it was constructed and stamped.

(2) The maximum allowable working pressure of a boiler which does not carry the ASME Code symbol shall be computed in accordance with the ASME "Suggested Rules Governing Existing Installations."

(3) This chapter shall not be construed as in any way preventing the use or sale of a boiler referred to in this section, provided it has been made to conform to the rules and regulations of commissioner governing existing installations; and provided, further, it has not been found upon inspection to be in an unsafe condition. (1962, c. 89, § 5, effective June 14, 1962)

236.060 Application of KRS 236.005 to 236.150. (1) KRS 236.005 to 236.150 shall not apply to boilers under Federal control.

(2) KRS 236.005 to 236.150 shall not apply to the following boilers:

(a) Boilers located on farms and used solely for agricultural purposes;

(b) Boilers located at any oil refineries;

(c) Steam or vapor boilers used for heating purposes carrying a pressure of not more than 15 pounds per square inch gauge, and which are located in private residences or in apartment houses of less than six families;

(d) Hot water heating boilers carrying a pressure of not more than 30 pounds per square inch gauge, or hot water supply boilers which are located in private residences or in apartment houses of less than six families;

(e) Any unfired pressure vessels used as containers for liquefied petroleum gases and subject to the jurisdiction of the Department of Public Safety under Kentucky Revised Statutes, Chapter 234. (1962, c. 89, § 6, effective June 14, 1962)

236.070 Boiler Inspectors. The department shall employ boiler inspectors who shall have had at the time of appointment not less than five years practical experience in the construction, maintenance, repair or operation of high pressure boilers and unfired pressure vessels as a mechanical engineer, practical steam operating engineer, boilermaker, or boiler inspector, and who shall have passed the examination provided for in KRS 236.090. (1962, c. 89, § 7, effective June 14, 1962)

236.080 Special Boiler Inspectors; Salary Prohibited; Duties; Report; Right of Access. (1) In addition to the boiler inspectors authorized by KRS 236.070, the department shall, upon the request of any company authorized to insure against loss from explosion of boilers in this state, issue to any boiler inspectors of said company commissions as special boiler inspectors, provided that each such special boiler inspector before receiving such commission, shall satisfactorily pass the examination provided for in KRS 236.090, or, in lieu of such examination, shall hold a commission of competency as an inspector of boilers for a state that has a standard of examination substantially equal to that of this Commonwealth or a commission as an inspector of boilers issued by the National Board of Boiler and Pressure Vessel Inspectors.

(2) Such special boiler inspectors shall receive no salary from, nor shall any of their expenses be paid by, the state and the continuance of a special boiler inspector's commission shall be conditioned upon his continuing in the employ of a boiler insurance company duly authorized as aforesaid and upon his maintenance of the standards imposed by this chapter.

(3) Such special boiler inspectors shall inspect all boilers insured by their respective companies, and, when so inspected, the owners and users of such insured boilers shall be exempt from the

payment to the state of the inspection fees as provided for in KRS 236.120 and 236.130.

(4) Each company employing such special boiler inspectors shall within thirty days following each internal boiler inspection made by such inspectors, file a report of such inspection with the department upon appropriate forms prescribed by the department. Reports of external inspections shall not be required except when such inspections disclose that the boiler is in a dangerous condition.

(5) Inspectors, whether employes of the department or special inspectors, shall have free access, during reasonable hours, to any premises in the state where a boiler is being constructed or is being installed, for the purpose of ascertaining whether such boiler is constructed and installed in accordance with the law, and any orders, rules or regulations in existence at that time. (1962, c. 89, § 8, effective June 14, 1962)

236.090 Examinations. Examination for boiler inspectors or special boiler inspectors shall be in writing and shall be given by the Department of Personnel. The record of an applicant's examination shall be accessible to said applicant and his employer. (1962, c. 89, § 9, effective June 14, 1962)

236.100 Suspension of Appointment; Notice; Reinstatement. (1) Any boiler inspector's appointment or commission may be suspended by the department, after due investigation, for the incompentence or untrustworthiness of the holder thereof for willful falsification of any matter or statement contained in his application or in a report of any inspection made by him. Written notice of any such suspension shall be given by the department to the inspector, and in the case of special boiler inspector, his employer.

(2) A person whose appointment or commission has been suspended shall be entitled to apply, after ninety days from the date of such suspension, for reinstatement of such appointment or commission. (1962, c. 89, § 10, effective June 14, 1962)

236.110 Boiler Inspection Required; Periods of Inspection. (1) On and after July 1, 1962, each boiler used or proposed to be used within this state, except boilers exempt under KRS 236.060, shall be thoroughly inspected as to their construction, installation and condition as follows:

(a) Power boilers, meaning boilers operating at steam or

vapor pressures in excess of 15 pounds per square inch gauge, shall be inspected annually both internally and externally while not under pressure and shall also be inspected annually externally while under pressure if possible;

(b) Low pressure steam or vapor heating boilers, hot water heating boilers and hot water supply boilers shall be inspected both internally and externally biennially where construction will permit;

(c) A grace period of two months beyond the periods specified in paragraphs (a) and (b) of this subsection may elapse between inspections;

(d) The department may at its discretion permit longer periods between inspections.

(2) The inspections required in this section shall be made by a boiler inspector or by a special boiler inspector provided for in this chapter.

(3) If at any time a hydrostatic test shall be deemed necessary, same shall be made, at the discretion of the inspector, by the owner or user thereof.

(4) All boilers to be installed in this state after the twelve months period from the date upon which the rules and regulations of the board shall become effective, shall be inspected during construction as required by the applicable rules and regulations of the department by a boiler inspector authorized to inspect boilers in this state, or, if constructed outside of the state, by an inspector holding a certificate of competency as an inspector of boilers for a state that has a standard of examination substantially equal to that of this state as provided in KRS 236.090. (1962, c. 89, § 11, effective June 14, 1962)

236.120 Inspection Fee; Certificate; Term; Posting; Termination; Suspension. (1) If, upon inspection, a boiler is found to comply with the rules and regulations of the board, the owner or user thereof shall pay to the department the sum of two dollars ($2.00) and the boiler inspector, or his duly authorized representative, shall issue to such owner or user an inspection certificate bearing the date of inspection and specifying the maximum pressure under which the boiler may be operated. Such inspection certificate shall be valid for not more than fourteen months from its date in the case of power boilers, and twenty-six months in the case of low pressure steam or vapor heating boilers, hot water

heating boilers or hot water supply boilers. Certificates shall be posted under glass in the room containing the boiler inspected or, in the case of a portable boiler, shall be kept in a metal container, either fastened to the boiler or kept in a tool box accompanying the boiler.

(2) No inspection certificate issued for an insured boiler inspected by a special boiler inspector shall be valid after the boiler for which it was issued shall cease to be insured by a company duly authorized by this state to carry such insurance.

(3) The commissioner or his authorized representative may at any time suspend an inspection certificate when, in his opinion, the boiler for which it was issued, cannot be operated without menace to the public safety, or when the boiler is found not to comply with the rules and regulations provided in this chapter. A special boiler inspector shall have corresponding powers with respect to inspection certificates for boilers insured by the company employing him. Such suspension of an inspection certificate shall continue in effect until such boiler shall have been made to conform to the rules and regulations of the board, and until said inspection certificates shall have been reinstated. (1962, c. 89, § 12, effective June 14, 1962)

236.130 Inspection Fees. (1) The owner or user of a boiler required by this chapter to be inspected shall pay to the department, upon completion of inspection, fees in accordance with the following schedule:

(a) Power Boilers:

Internal Inspections

Boilers of less than 50 sq. ft. of heating surface	$ 5.00
Boilers over 50 sq. ft. of heating surface and less than 4,000 sq. ft. of heating surface	12.00
Boilers over 4,000 sq. ft. of heating surface and less than 10,000 sq. ft. of heating surface	15.00
Boilers over 10,000 sq. ft. of heating surface	20.00

External Inspections

Boilers of less than 50 sq. ft. of heating surface	3.00
Boilers over 50 sq. ft. of heating surface	5.00

Not more than the equivalent of the internal and external inspection fees shall be charged or collected for any and all inspections as above of any boiler in any one year.

(b) Low Pressure Boilers:
Inspection of heating boilers without a manhole...$ 5.00
Inspection of heating boilers with a manhole 10.00
Inspection of hot water supply boilers 3.00

Not more than one fee shall be charged or collected for any and all inspections as above of any low pressure boiler in any two year period.

(c) Hydrostatic Tests:

When it is necessary to make a special trip to witness the application of a hydrostatic test, an additional fee based on the scale of fees applicable to an internal inspection of the boiler shall be charged.

(d) All other inspections, including shop inspections and inspection of second-hand or used boilers made by the boiler inspector shall be charged for at the rate set by regulation, rule or order promulgated by the commissioner upon advice of the board.

(2) All fees received by the department shall be held in a revolving fund from which the expenses of administering this chapter may be paid. (1962, c. 89, § 14, effective June 14, 1962)

236.140 Inspector's Bond. The boiler inspectors shall furnish a bond in the sum of five thousand dollars ($5,000.00) each, conditioned upon the faithful performance of their duties and upon a true account of moneys handled by them respectively and the payment thereof to the proper recipient. The cost of said bonds shall be paid by the department. (1962, c. 89, § 15, effective June 14, 1962)

236.150 Appeals. (1) Any person aggrieved by an order or act of a boiler inspector, under this chapter, may, within fifteen days of notice thereof, appeal from such order or act to the commissioner who shall, within thirty days thereafter, hold a hearing, after having given at least ten days written notice to all interested parties. The commissioner shall, within thirty days after such hearing, issue an appropriate order either approving or disapproving said order or act. A copy of such order by the board shall be given to all interested parties.

(2) Within thirty days after any order or act of the board, any person aggrieved thereby may file a petition in the Franklin Circuit Court for a review thereof. The court shall summarily hear the

petition and may make any appropriate order or decree. (1962, c. 89, § 16, effective June 14, 1962)

236.990 Penalties. After twelve months following June 14, 1962, it shall be unlawful for any person, firm, partnership or corporation to operate in this state a boiler under pressure without a valid inspection certificate. The operation of a boiler without such inspection certificate, or at a pressure exceeding that specified in such inspection certificate, shall constitute a misdemeanor on the part of the owner, user or operator thereof and shall be punishable by a fine not exceeding five hundred dollars, or imprisonment not to exceed three months, or both, at the discretion of the court. Each day of such unlawful operation shall be deemed a separate offense. (1962, c. 89, § 13, effective June 14, 1962)

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.

TRESPASSING

259.200 [46445n–2] **Trespassing on Park, Camp Grounds or Floodwalls Prohibited.** No person shall permit any cattle to run or trespass upon any state or national parks, encampment grounds, scout camps, grounds dedicated to religious, educational or recreational purposes or floodwalls erected at public expense. (1954, c. 229, § 1)

DONATIONS BY CORPORATIONS

271.125 Corporate Powers. Each corporation formed under the provisions of this chapter shall have power:

(1) To have a corporate seal and alter it at pleasure;

(2) To continue as a corporation for the time limited in its articles of incorporation, or, if no such time limit is specified then perpetually;

(3) To sue and be sued in its corporate name;

(4) To contract and be contracted with;

(5) To acquire, hold, sell, dispose of, pledge or mortgage any such property as its purposes may require, subject to any limitation prescribed by law or the articles of incorporation;

(6) To elect and appoint such officers and agents as the business of the corporation shall require, and to remove them, to define their duties and fix their compensation and to require a bond for the faithful discharge of their duties;

(7) To make bylaws not inconsistent with law;

(8) To conduct the business and promote the purposes for which it was formed in this state and elsewhere as may be permitted by law;

(9) To dissolve and wind up as provided in KRS 271.495 to 271.545;

(10) To acquire, hold, mortgage, pledge or dispose of the shares, bonds, securities and other evidences of indebtedness of any domestic or foreign corporation;

(11) To indemnify its directors and officers as set out in KRS 271.375;

(12) To accept gifts and to carry out any terms, requests or conditions prescribed or made by the donor thereof;

(13) To make donations for public welfare, scientific, religious or educational purposes. (1946, c. 141; 1952, c. 94, § 1)

RELIGIOUS, CHARITABLE AND EDUCATIONAL SOCIETIES

273.010 [883] **Not Subject to General Corporation Law, Except as to Process Agent.** Unless expressly included, corporations organized under KRS 273.020 shall not be subject to any statutes relating to corporations having a capital stock or organized for pecuniary profit, except KRS 271.285, requiring an agent for process, but shall at all times be subject to visitation by the legislature. (1946, c. 141, § 15)

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, or of any other existing corporation, association or society heretofore incorporated or chartered for charitable, religious or educational purposes, and not operated, managed or used for private profit, may change its charter or articles of incorporation by filing and recording the amendment as original articles are required to be filed and recorded under KRS 273.020. Any amendments or changes in charters or articles of incorporation heretofore made in this manner shall be deemed valid the same as though made pursuant to the provisions of this section. (1950, c. 141, § 1)

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 governing 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.

Trustees, Etc. v. Garrard County Bd. of Ed., 348 S. W. (2d) 846. 1961. Cessation of local Presbyterian Church was not such dissolution of religious body as to cause its realty to escheat under statute providing that if any religious society holding land dissolves, title shall vest in trustees of county seminary, and, if there is no such seminary, then in county court for benefit of county schools.

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 buses and other vehicles used exclusively in the transportation of school children to and from school. (1944, c. 112, § 1)

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

281.605 Exemption of Motor Vehicles Used for Certain Purposes. The provisions of this chapter shall not apply, except as to safety regulations, to:

(1) Motor vehicles used as school buses and while engaged in the transportation of students, under the supervision and control and at the direction of school authorities. (1950, c. 63, § 8; 1962, c. 96, § 1, effective March 9, 1962)

INDEBTEDNESS: EXCEPTIONS TO SECTION 583, KENTUCKY STATUTES, WHICH IS SECTION 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 guarantees 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 consolidated bonds issued by or for federal land banks or consolidated debentures issued by or for federal intermediate credit banks under the Act of Congress known as the "Federal Farm Loan Act," and amendments thereto; or consolidated debentures issued by or for banks for cooperatives under the Act of Congress known as the "Farm Credit Act of 1933," and amendments thereto; or obligations issued by the federal home loan banks; or obligations which are insured by the Federal Housing Administrator pursuant to Title 12, Section 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; 1960, c. 152)

GOVERNMENTAL AGENCY AND MUTUAL INSURANCE

304.171 Membership. (1) Each holder of one or more policies issued by a domestic mutual insurer, other than a contract of reinsurance, is a member of the insurer with the rights and obligations of such membership, and each such policy shall effectively so stipulate.

(2) Any governmental agency, public or private corporation, firm, board, association, estate, trustee, fiduciary or persons, in this state or elsewhere, may make application, enter into agreement for and hold policies or contracts in or with and be a member of any domestic, foreign or alien mutual insurer. Any officer, representative, or trustee, receiver or legal representative of any such member or policy holder, shall be recognized as acting for or on its behalf for the purpose of such contracts or membership, but shall not be personally liable upon such contract by reason for acting in such representative capacity. (1950, c. 21, § 1)

Louisville Board of Insurance Agents v. Jefferson County Board of Education, 309 S. W. (2d) 40. A school board may insure its property with mutual insurance companies under nonassessable policies which provide that insured becomes a member of the company with power to vote without violating constitutional prohibition against incorporate districts from becoming a stockholder in a company or corporation.

Dalzell v. Bourbon County Board of Education, et al., 193 Ky. 171. Boards may purchase insurance from mutual companies. (December 6, 1921.)

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.

QUALIFICATIONS OF ARCHITECTS

323.010 Definitions. As used in this chapter, unless the context requires otherwise: (1) "Board" means the State Board of Examiners and Registration of Architects of Kentucky;

(2) An "architect" is a natural person proficient in the art of planning, designing, specifying, supervising and administering the construction of buildings and who is licensed to practice architecture;

(3) The "practice of architecture" consists of performing or offering to perform any professional service involving consultations, planning, designing, specifying, responsible supervision or administration of the construction of any building or additions or alterations thereto;

(4) A "building" is a structure erected as a shelter for human beings, their activities and possessions. (1960, c. 218, § 1; effective June 16, 1960)

323.020 [73–1] **License Required.** Except as otherwise provided hereinafter, no person shall practice architecture in the Commonwealth of Kentucky without first obtaining a license under the provisions of this chapter, it being the purpose of this chapter to safeguard the life, health, property and welfare of the public. (1960, c. 218, § 2; effective June 16, 1960)

323.030 [73–6] **Persons and Buildings to Which Chapter Does Not Apply.** (1) A nonresident licensed to practice architecture in his own state or country but not in the Commonwealth and having no established place of business in the Commonwealth may act solely as a consulting associate of an architect licensed in the Commonwealth.

(2) An architect acting solely as an officer or employe of the United States Government is not required to be licensed in the Commonwealth.

(3) A licensed professional engineer may prepare plans and specifications for and supervise the construction of structures as an incident to the practice of his own profession.

(4) If the drawings and specifications are signed by the authors thereof with the true titles of their occupations as may be required by law, this chapter does not apply to:

(a) Any building which is to be used for farm purposes only;

(b) Any building containing not more than 20,000 square feet total floor area, except:

1. An asylum, hospital, nursing or convalescent home, or home for the aged, regardless of capacity;

2. A school or educational institution, regardless of capacity;

3. A residential building containing more than twelve bedrooms;

4. A place of assembly, regardless of capacity;

5. A mercantile building having a capacity in excess of one hundred persons;

6. An industrial building having a capacity in excess of one hundred persons; and

7. An office building having a capacity in excess of one hundred persons;

(c) Alterations to any building to which this chapter does not apply, if the alterations do not involve changes affecting structural safety. (1960, c. 218, § 3; effective June 16, 1960)

323.050 [73–5] **Qualifications for License; Time of Examination.** (1) To obtain a license to practice architecture in Kentucky an applicant must satisfactorily pass an examination as prescribed by the board, except as otherwise provided in this chapter.

(2) Every applicant for examination shall fulfill the following requirements:

(a) Must be of good moral character; and

(b) Must be a citizen of the United States of America and at least twenty-five years of age; and either

(c) Must be a graduate of an accredited school of architecture with at least three years' additional architectural experience satisfactory to the board; or

(d) Must be a graduate of an accredited high school or have had education equivalent thereto as determined by the board, and, in addition, at least five years' varied architectural experience satisfactory to the board.

(3) Examinations shall be given at least semi-annually, the time and place to be established by the board. (1960, c. 218, § 4; effective June 16, 1960)

323.060 [73–5] **Persons Who May Be Licensed Without Examination.** Any person who is a licensed architect in another state or country where the qualifications prescribed at the time of licensing

were, in the opinion of the board, equal to those prescribed in the Commonwealth at the date of application, and where reciprocal licensing privileges satisfactory to the board are granted to licensees of the Commonwealth, may be granted a license without an examination. (1960, c. 218, § 5; effective June 16, 1960)

323.080 [73–11; 73–13] **Fees.** (1) Fees for the following services shall be established by the rules of the board, and in no case shall they exceed the following schedule:

(a) For an examination $50.00
(b) For a license certificate 25.00
(c) For the restoration of an expired license 25.00
(d) For a license to an architect satisfactorily licensed in another state or country 50.00

(2) The proper fee as prescribed above shall be paid to the board, and shall not be refunded in whole or in part. (1960, c. 218, § 6; effective June 16, 1960)

INDEPENDENT BUSINESS SCHOOLS

331.010 Definitions. As used in this chapter, unless the context otherwise requires:

(1) "Independent business school," "business school" or "school" means an educational institution privately owned and operated by an individual, partnership, association or corporation offering business courses through residence, extension or correspondence for which tuition is charged, in such subjects as: typewriting, shorthand, (manual or machine), filing and indexing, receptionist's duties, key-punch, teletype, penmanship, bookkeeping, accounting, office machines, business arithmetic, English, business letter writing, salesmanship, personality development, leadership training, real estate, insurance, traffic management, business psychology, economics, business management, charm and modeling, air line training and other related subjects of similar character.

(2) "Board" means the State Board of Business Schools.

(3) "Agent" means any person employed by a school to act as agent, solicitor, broker or independent contractor to procure students for such school by solicitation of enrollment in any form made at any place other than the main office or principal place of business of the school.

(4) "Superintendent" means Superintendent of Public Instruction. (1962, c. 296, § 1, effective June 14, 1962)

331.020 Application of Chapter. This chapter shall not apply to any school offering a four year college course recognized by the State Department of Education nor shall it apply to any religious and nonprofit independent business school exempt from taxation under the laws of this state, or which is subject to the provisions of KRS 156.160. (1962, c. 296, § 2, effective June 14, 1962)

331.030 Business School License; License as Agent. (1) No person shall conduct, operate, maintain or establish an independent business school or use the term "independent business school," "business college" or any words which designate or tend to designate to the public the operator of such institution is qualified to conduct, operate and maintain an independent business school, unless he holds a valid current license from the board.

(2) No person shall in any way solicit any person or group of persons in this state to enroll at or attend any independent business school unless such person holds a valid license as agent of the school for which he is soliciting. (1962, c. 296, § 3, effective June 14, 1962)

331.040 State Board of Business Schools; Membership; Officers; Powers; Duties. (1) There is hereby established a State Board of Business Schools which shall consist of the Superintendent of Public Instruction and six persons to be appointed by the Governor.. Four members of the board shall be persons who, for at least five years next preceding the date of their appointment, shall have occupied executive or managerial positions with an independent business school in Kentucky. These four appointments shall be made from a list of two names for each position submitted by the Kentucky Association of Independent Business Colleges. Two members of the board shall be persons occupied in commerce or industry in Kentucky.

(2) Upon expiration of each of the respective terms of the members first appointed, the term of each successor shall be four years or until his successor shall be appointed and qualified.

(3) The Superintendent of Public Instruction shall serve as ex officio president of the board and the members of the board shall elect one of their number as secretary. The board is authorized

to fix the compensation of the secretary and to employ and fix the compensation of all personnel required by it for the administration of the provisions of this chapter. The board shall have the power to make all rules and regulations, consistent with the provisions of this chapter, as may be necessary to carry out the provisions and purposes of this chapter.

(4) The board shall hold meetings at least twice a year and as frequently as it deems necessary at such times and places as the board may designate and the majority of the members shall constitute a quorum.

(5) The board may sue and be sued in its own name.

(6) The members of the board, except the secretary, shall receive no compensation for their services but may be paid their travel and other expenses while employed upon the business of the board.

(7) The board shall administer the provisions of law pertaining to the conduct, operation, maintenance and establishment of independent business schools, and the activities of agents thereof when acting as such. (1962, c. 296, § 4, effective June 14, 1962)

331.050 Application for License; Contents; Fees; Investigation. (1) Any person seeking a license to conduct, operate, maintain or establish an independent business school shall make verified application to the board on forms prepared and furnished by the board setting forth the following information:

(a) The title or name of the school, together with the names of the owner or owners, and if the owner be a corporation the names and addresses of the officers thereof;

(b) The specific courses and fields of instruction which will be offered;

(c) The place or places where such instruction will be given and a description of the physical and sanitary facilities thereof;

(d) A specific listing of the equipment available for instruction in each course; and

(e) The education and teaching qualifications of the instructors and supervisor.

(2) Each initial application for a license shall be accompanied by a filing fee of fifty dollars, no part of which shall be refunded if a license is denied or if the application is withdrawn.

(3) Upon receipt of an application for a license accompanied by the filing fee, the board, or any of its members, shall conduct such an investigation as it or they deem reasonable and necessary and upon completion of such investigation to the satisfaction of the members of the board, the license shall be granted or denied by the board pursuant to KRS 331.080.

(4) Any person seeking a license to act as agent for an independent business school shall make verified application to the board on forms prepared and furnished by the board setting forth the following information:

(a) The name and permanent address of the applicant, together with his date of birth and the name of the school for which an agent's license is sought;

(b) A verified statement setting out evidence of the honesty, truthfulness and integrity of the applicant;

(c) The verified recommendation of two reputable persons certifying that the applicant is truthful, honest and of good repute and that a license as agent should be granted him.

(5) Each initial application for an agent's license shall be accompanied by a filing fee of twenty-five dollars, no part of which shall be refunded if a license is denied or if the application is withdrawn.

(6) Upon receipt of an application for an agent's license accompanied by the filing fee, the board, or any of its members, may conduct such an investigation as it or they deem reasonable and necessary, and upon completion of such investigation, if any be made, the license shall be granted or denied by the board pursuant to KRS 331.080.

(7) Every agent shall obtain a separate license for each school which he represents as agent; provided, however, that the filing fee for each license applied for after the first application shall be ten dollars.

(8) Nothing in this section shall be construed to require an employe or officer of a licensed independent business school to hold an agent's license merely because such employe or officer accepts the applications and enrollments at the main office or principal place of business of the independent business school. (1962, c. 296, § 5, effective June 14, 1962)

331.060 Licensees List Maintained; Publication. The board shall maintain a listing of the name and address of every person licensed

under this chapter and shall publish such listing at least once a year by mailing such listing to each independent business college licensed under this chapter. Changes in the listing may be published in the same manner at such times as the board in its discretion may determine. (1962, c. 296, § 6, effective June 14, 1962)

331.070 License Expiration; Renewal; Trust and Agency Fund. (1) Every license issued for the operation of an independent business school shall expire on September 30 following the date of issuance unless sooner revoked and cancelled.

(2) Between August 15 and September 1 of each year, the board shall send notices to all licensed independent business schools in this state advising them that the annual license renewal fee is due on October 1 of each year. Every licensed independent business school shall renew its license between September 1 and October 1 of each year by the payment to the board of an annual license renewal fee of twenty-five dollars. If such renewal fee is not paid on or before October 1, the board shall notify the delinquent licensee by registered or certified mail that such fee is due and unpaid and that a delinquent penalty of fifty dollars is assessed in addition to the renewal fee of twenty-five dollars and must be paid on or before January 1. If such fees and penalties are not paid by January 1 the board shall suspend or revoke said license for non-payment of annual renewal and delinquent fees for the current year.

(3) Every license issued to an agent shall expire on September 30 following the date of issuance unless sooner revoked or cancelled.

(4) Between August 15 and September 1 of each year, the board shall send notices to all licensed agents advising them that the annual license renewal fee is due on October 1 of each year. Every licensed agent shall renew his license between September 1 and October 1 of each year by the payment to the board of an annual license renewal fee of five dollars for each license held. If such renewal fee or fees are not paid on or before October 1, the board shall notify the delinquent licensee by certified or registered mail that such fee or fees are due and unpaid and that a delinquent penalty of ten dollars for each license held is assessed in addition to the renewal fee of five dollars and must be paid on or before January 1. If such fees and penalties are not paid by January 1, the board shall revoke said license or licenses for nonpayment of annual renewal and delinquent fees for the current year.

(5) All fees collected under the provisions of this chapter or the rules and regulations adopted pursuant to this chapter shall be paid into the State Treasury and credited to a trust and agency fund to be used in defraying the cost and expenses of the administration of this chapter, including, but not limited to, salaries and necessary expenses. No part of this fund shall revert to the general funds of the Commonwealth. (1962, c. 296, § 7, effective June 14, 1962)

331.080 License Revocation, Suspension; Grounds. (1) The board shall refuse to license or renew the license or shall suspend or revoke the license of any independent business school on proof that the individual applicant or holder has been convicted of a felony, a misdemeanor involving moral turpitude or has been guilty of conduct likely to deceive or defraud the public, or that the applicant or holder:

(a) Has employed, hired, procured or induced a person not licensed to act as agent for such independent business school; or

(b) Has been granted a license upon mistake of a material fact; or

(c) Has furnished false, misleading or incomplete information to the board; or

(d) Has presented information to prospective students relating to the school or to employment opportunities after entering into or completing courses offered by the school which was false, misleading or fraudulent; or

(e) Has failed to provide or maintain premises or equipment in a safe and sanitary condition to such an extent that such failure constitutes a violation of law; or

(f) Has failed to provide and maintain financial resources adequate for the satisfactory conduct of the courses of instruction offered; or

(g) Has failed to retain a sufficient and qualified staff of instructors and administrative personnel; or

(h) Has proposed to conduct or has conducted instruction in a course or field not approved by the board for that particular school.

(2) The board shall refuse to license or renew the license or shall suspend or revoke the license of any applicant or agent on proof that the individual applicant or holder:

(a) Has been convicted of a felony, a misdemeanor involving moral turpitude or has been guilty of conduct likely to deceive or defraud the public; or

(b) Has employed, hired, procured or induced an unlicensed person to act as agent for such independent business school; or

(c) Has been granted a license upon mistake of a material fact; or

(d) Has furnished false, misleading or incomplete information to the board; or

(e) Has presented information to prospective students relating to the school or to employment opportunities after entering into or completing the course offered by the school which is false, misleading or fraudulent. (1962, c. 296, § 8, effective June 14, 1962)

331.090 License Revocation, Suspension; Hearing, Procedure. (1) The board may suspend or revoke a license or may refuse to renew a license only after a hearing of which the holder of the license has been given adequate notice by mailing a copy of the notice by certified or registered mail at least twenty days prior to the hearing. At the hearing, the board and the holder of the license shall have the benefit of counsel.

(2) The board may administer oaths, take the depositions of witnesses as in civil cases and compel them to attend before it in person as in civil cases by subpoena issued in the name of the Commonwealth and over the signature of the president of the board.

(3) Proceedings for the suspension or revocation of a license may be instituted by any individual or organization filing a verified complaint with the secretary of the board or such proceedings may be instituted by the board acting upon its own initiative or by the president or secretary of the board acting on behalf of the board.

(4) The board may institute in its own name proceedings to restrain and enjoin temporarily or permanently violations of this chapter regardless of whether the defendant has been convicted for violations of the penal provisions of this chapter, and the board shall not be required to pay any costs or filing fee or furnish any bond in connection therewith.

(5) Hearings held by the board under subsection (1) of this section shall be held in the county where the holder of the license lives or operates an independent business school. (1962, c. 296, § 9, effective June 14, 1962)

331.100 Duty of Prosecuting Attorneys; Appeal, Procedure. (1) County and Commonwealth's Attorneys and the Attorney General within their respective jurisdictions shall prosecute all violations of the penal provisions of this chapter and shall, when requested by the board, represent the board in matters relating to the enforcement of this chapter.

(2) A licensee whose license has been revoked or suspended by the board or who has been refused a renewal license may, within thirty days of the entry of the order, appeal to the circut court of the county in which the hearing was held. The person taking the appeal shall serve upon the secretary of the board, by certified or registered mail, a written notice of appeal and shall file with the clerk of the circuit court to which such appeal is taken an appeal bond with good and sufficient surety, to be approved by the clerk, conditioned for the speedy prosecution of the appeal and the payment of any costs charged against him upon the appeal. The board, within ten days after the service of notice of appeal and the filing and approval of the bond, shall transmit to the clerk of the court a certified copy under the seal of the board of the evidence upon which the ruling of the board was based. The clerk shall then docket the case and it shall be tried in all respects like an ordinary civil action. Either party may appeal from the judgment of the circuit court to the Court of Appeals as in a civil action. The order appealed from shall be stayed from the date of the approval of the bond until the final determination of the appeal. (1962, c. 296, § 10, effective June 14, 1962)

331.990 Penalties. (1) Any person who violates the provisions of subsection (1) of KRS 331.030 shall be fined not less than one hundred dollars nor more than five thousand dollars and each day the violation continues shall constitute a separate offense.

(2) Each first violation of subsection (2) of KRS 331.030 shall be punishable by a fine of not less than fifty dollars nor more than one thousand dollars or by imprisonment for not less than one month nor more than twelve months, or both fine and imprisonment. Each subsequent violation of subsection (2) of KRS 331.030 shall be punishable by a fine of not less than one hundred dollars nor more than five thousand dollars and imprisonment for not less than three months nor more than twelve months, or both fine and imprisonment. (1962, c. 296, § 11, effective July 14, 1962)

PUBLIC WORKS AND LABOR

337.505 Definition for KRS 337.510 to 337.550. (1) For the

purpose of KRS 337.510 to 337.550, the term "prevailing wage" for each classification of laborers, workmen, mechanics, helpers, assistants and apprentices engaged in the construction of public works within the Commonwealth of Kentucky means:

(a) The wages that are or have been paid to the majority of laborers, workmen, mechanics, helpers, assistants and apprentices employed in each classification of construction upon reasonably comparable construction in the locality where the work is to be performed; such wages shall be determined in accordance with paragraphs (a), (b) and (c) of subsection (3) of KRS 337.520. (1962, c. 173, § 1)

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 from the department 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. (1960, c. 56, § 1; effective June 16, 1960)

337.515 Application of KRS 337.510 to 337.550. (1) KRS 337.510 to 337.550 shall not apply to the construction of public works fairly estimated to cost less than $25,000, provided, however, that for any one public authority the aggregate amount of construction exempted by this section shall not exceed $75,000 during any calendar year.

(2) In case two or more public authorities enter into joint agreements for the construction of public works, KRS 337.510 to 337.550 shall not apply to such construction if fairly estimated to cost less than $25,000. The amount of the exemption chargeable to each public authority for the purpose of the $75,000 annual limitation imposed by subsection (1) of this section shall be computed pro rata according to how each public authority is to share in the cost of the project. (1962, c. 173, § 3, effective June 14, 1962)

337.520 Determination of Prevailing Wages; Regulations; Filing Wage Contract. (1) The commissioner shall make initial determi-

nations and current revisions thereof of schedules of rates of prevailing wages as defined in KRS 337.505.

The commissioner shall have the authority to make and revise such rules and regulations as he may deem appropriate to carry out the provisions and purposes of KRS 337.510 to 337.550 and to prevent the circumvention or evasion thereof. No rule or regulation or revisions thereof shall be issued by the commissioner except upon reasonable notice to, and opportunity to be heard by, any interested person.

(2) The commissioner shall require the filing of all wage contracts of all laborers, workmen, mechanics, helpers, assistants and apprentices in this state which have been agreed to between bona fide organizations of labor and an employer or associations of employers. Such contracts shall be filed within ten days after they are signed.

(3) The commissioner shall have the authority to determine schedules, and current revisions thereof, of the rates of prevailing wages as defined in KRS 337.505, but in no case shall the commissioner determine wages to be paid for a legal day's work to laborers, workmen, mechanics, helpers, assistants and apprentices engaged in the construction of public works at less than the prevailing wages paid in the localities.

The commissioner in determining what rate of wages prevail shall consider the following criteria:

(a) Wage rates paid on previous public works constructed in the localities. In considering such rates the commissioner shall ascertain, in so far as practicable, the names and addresses of the contractors including sub-contractors, the locations, approximate costs, dates of construction and types of projects, the number of workers employed on each project and the respective wage rates paid each worker who was engaged in the construction of these projects.

(b) Wage rates previously paid on reasonably comparable private construction projects constructed in the localities. In considering such rates the commissioner shall ascertain, in so far as practicable, the names and addresses of the contractors including sub-contractors, the locations, approximate costs, dates of construction and types of projects, the number of workers employed on each project and the respective wages rates each worker who was engaged in the construction of these projects.

(c) Collective bargaining agreements or understandings between bona fide organizations of labor and their employers located in the Commonwealth of Kentucky which agreements apply or pertain to the localities wherein the public works are to be constructed.

(4) The wage rates to be used by the public authority in a contract for the construction of public works shall be the prevailing wage as of the date the public work project is advertised and offered for bid. If contracts are not awarded within ninety days after the date of offering for bid the public authority shall reascertain the prevailing rate of wages from the department before the contract is awarded. The schedule or scale of prevailing wages shall be incorporated in and made a part of each contract. (1960, c. 56, § 2; 1962, c. 173, § 2; part recompiled as KRS 337.522)

337.522 Hearings; Revisions. (1) The Commissioner or his authorized representative shall conduct a public hearing for the purpose of making initial determinations, or current revisions thereof, of a prevailing wage schedule for the construction of public works pertaining to a locality; such a hearing shall be conducted in the locality after notice has been given as provided in subsection (3) of this section.

(2) A public authority or any interested person may request and shall be granted an additional hearing for the purpose of having considered a revision of the prevailing wage schedule for the construction of public works in the locality; after notice has been given as provided in subsection (3) of this section, such hearing shall be conducted in the locality by a prevailing wage review board consisting of one member representing employers in the construction industry, one member representing labor in the construction industry, and one member appointed by the public authority requesting the hearing. The member appointed by the public authority shall reside in the locality wherein the public works are to be constructed. The members of the board representing employers in the construction industry and labor in the construction industry shall be appointed for periods of not more than four years by the Governor from a list of prospective members recommended by bona fide associations representing the construction industry and bona fide labor organizations representing workers employed in the construction industry, and such members shall serve on the board for all hearings during their tenure. Prevailing wage review boards

shall have the authority to revise prevailing wage schedules for the construction of public works; however, such revisions shall be governed by the same criteria and regulations governing wage determinations of the commissioner. A revision of a prevailing wage schedule for the construction of public works shall require a vote of a majority of the members. The members of a prevailing wage review board shall receive their actual necessary expenses incurred in carrying out their duties and such expenses shall be paid out of the General Fund of the Commonwealth of Kentucky.

(3) Notice of hearings as required in subsections (1) and (2) of this section shall be given by advertising one time in the newspaper having the largest circulation in the locality, and such advertisement shall be run not less than 10 nor more than 20 days prior to the date of the hearing. The advertisement shall set forth all pertinent information of the hearing regarding the time, place, and purpose of the hearing. (Formerly compiled as part of KRS 337.520)

Kerth v. Hopkins County Board of Education, 346 S. W. (2d) 737. 1961. The Prevailing Wage Board had no authority to fix local prevailing wage rates for public works based on labor union contracts or understandings applicable to other localities when adequate and representative labor force where work was to be performed was not covered by such agreements or understanding.

1961. Where statute empowering Prevailing Wage Board to establish wages for public works contracts at rates prevailing under collective agreements or understandings did not prescribe standards for setting prevailing wages in absence of agreements applying to sufficient number of laborers in locality, board had no authority to fix prevailing wages rates in locality in which agreements did not apply to sufficient number of employes to furnish it a reasonable basis for acting. Ibid.

337.525 Judicial Review. (1) Any interested person or party aggrieved by a final determination of a prevailing wage review board shall be entitled to judicial review thereof in Franklin Circuit Court. Proceedings for review shall be instituted by filing a complaint with the court within 30 days after notification of the final decision of the board. A copy of the complaint and summons shall be served upon the Department of Labor which shall constitute service upon the board. Within thirty days after such service, or within such further time as the court may allow, the department shall transmit to the court the original or a certified copy of the record of the proceeding under review; but, by stipulation, the record may be shortened. The review shall be conducted by the court without a jury; and except as otherwise provided by this section, the applicable Rules of Civil Procedure shall be followed. The review shall be confined to the record, except that in cases of alleged fraud or misconduct of some person engaged in the administration of KRS 337.510 to 337.550 testimony thereon may be taken in the court. The court may affirm the determinations of the board,

or remand the case for further proceedings, or it may reverse or modify the board's determinations if substantial rights have been prejudiced because the findings, conclusions, or determinations are: (a) in violation of constitutional or statutory provisions; or (b) in excess of the statutory authority or jurisdiction of the board; or (c) procured by fraud; or (d) not supported by substantial evidence. Proceedings for the judicial review of final wage determinations or intermediate department or board action involving wage determinations for the construction of public works shall not be instituted except as provided by this section.

(2) Any final judgment of the Franklin Circuit Court may be reviewed by appeal to the Court of Appeals. Such appeal shall be taken in the manner provided by law for appeals from the circuit courts in other cases. (1962, c. 173, § 5, effective June 14, 1962)

337.530 [2290c–4] **Contractor to Pay Prevailing Wages and Post Rates; Payroll Records.** (1) Where prevailing rate of wages has been determined and prescribed, the contract executed between a public authority and the successful bidder or contractor shall contain a provision requiring the successful bidder and all of his subcontractors to pay the rate of wages so established. The successful bidder or contractor and all subcontractors shall strictly comply with these provisions of the contract.

(2) All contractors and subcontractors required by KRS 337.510 to 337.550 and by contracts with any public authority to pay not less than the prevailing rate of wages, shall pay such wages in legal tender without any deductions. These provisions shall not apply where the employer and employe enter into an agreement in writing at the beginning of or during any term of employment covering deductions for food, sleeping accommodations or any similar item if this agreement is submitted by the employer to the department and is approved by the department as fair and reasonable. All contractors and subcontractors affected by the terms of KRS 337.510 to 337.550 shall keep full and accurate payroll records covering all disbursements of wages to their employes to whom they are required to pay not less than the prevailing rate of wages. Such records shall indicate the hours worked each day by each employe in each classification of work and the amount paid each employe for his work in each classification. They shall be open to the inspection and transcript of the commissioner or his authorized representative at any reasonable time, and every employer shall fur-

nish to the commissioner or his authorized representative on demand a sworn statement of them. The commissioner may require the statement to be upon forms prescribed or approved by him. These payroll records shall not be destroyed or removed from this State for one year following the completion of the improvement in connection with which they are made.

(3) Each contractor and subcontractor subject to the provisions of KRS 337.510 to 337.550 shall post and keep posted in a conspicuous place or places at the site of the construction work a copy or copies of prevailing rates of wages and working hours as prescribed in the contract with the public authority, showing the rates of wages prescribed and the working hours for each class of laborers, workmen, mechanics, helpers, assistants and apprentices employed by him in the work of constructing the public works provided for in the contract with the public authority. (1962, c. 173, § 4, effective June 14, 1962)

337.990 Penalties. (9) Any person who violates KRS 337.530 shall be fined not more than one hundred dollars.

(10) Any contractor or subcontractor who violates any wage or work hours provisions in any contract under KRS 337.510 to 337.550 shall be fined not more than one hundred dollars for each offense. Said contractor or subcontractor shall make full restitution to all employes to whom he is legally indebted by reason of said violation. Further, said contractor or subcontractor shall be barred from bidding on, or working on, any and all public works contracts, either in his name or in the name of any other company, firm, or other entity in which he might be interested until such restitution is complete. Each day of violation shall constitute a separate offense, and the violation as affects each individual worker shall constitute a separate offense.

(11) Any public authority who willfully fails to comply or to require compliance with KRS 337.510 to 337.550 shall be fined not more than one hundred dollars for each offense.

(1944, c. 63, § 2; 1960, c. 56, § 4; effective June 16, 1960)

EMPLOYMENT OF CHILDREN

339.210 Definition of "Gainful Occupation." As used in KRS 339.220 to 339.450 "gainful occupation" does not include employment in farm work or in domestic service in a private home, nor occasional

employment by a householder in connection with the household and not in connection with the householder's business or occupation, such as grass cutting or carrying ashes or similar casual domestic tasks, nor the delivery of newspapers on regularly scheduled routes. (1948, c. 107, § 1)

339.220 Minors Under Fourteen Not to be Employed. No minor under fourteen years of age shall be employed, permitted or suffered to work in, about or in connection with any gainful occupation at any time. (1948, c. 107, § 2)

339.230 Minors Between Fourteen and Sixteen, Restrictions on Employment of; Special Restrictions for Females. A minor who has passed his fourteenth birthday but is under sixteen years of age may be employed, permitted or suffered to work in, about or in connection with any gainful occupation, except: (1) He may not be employed during regular school hours, unless:

(a) He has been granted a special employment certificate in accordance with the provisions of KRS 339.290, and then only in such occupations as are authorized in accordance with that section; or

(b) The school authorities have made arrangement for him to attend school at other than the regular hours, in which event he may be employed subject to KRS 339.260, during such of the regular school hours as he is not required to be in attendance under the arrangement; or

(c) He has graduated from high school.

(2) He may not be employed:

(a) In, about or in connection with any manufacturing or mechanical establishment.

(b) On or in connection with any power-driven machinery except under school supervision as provided in KRS 339.430.

(c) As a messenger for any person, firm or corporation engaged primarily in the business of transmitting or delivering goods or messages.

(d) In the manufacture, transportation, or use of explosives or highly inflammable substances; in or about mines or quarries; in any tunnel or excavation; in logging operations or in any sawmill, lathe mill, shingle mill, or cooperage stock mill; as engineers, firemen, brakemen, or switchmen on any railroad; in the operation of motor vehicles; upon any scaffolding or in heavy construction work;

in operating steam boilers carrying a pressure of fifteen pounds or more; in operating or assisting in operating elevators, cranes, derricks, or hoists; in operating or assisting in operating any punch presses or stamping machines, metal or paper cutting machines having a guillotine action, metal shears or plate bending machines, machines used for cold rolling of heavy metal stock, wood-working machines, grinding, abrasive or polishing machines, laundry or dry cleaning machines, calendar rolls or mixing rolls in paper or rubber manufacturing, dough breakers or dough mixing machines, or machines used for opening, picking or carding of cotton or wool; in ore reduction works; smelters; hot rolling mills; plant manufacturing iron and steel; foundries; forging shops, and in any other place in which the heating, melting, or heat treatment of metals is carried on; in the manufacture or use of dangerous or poisonous dyes or chemicals and their compounds, or in the manufacture of lead, or in exposure to lead or its compounds; in any occupation involving exposure to radioactive substances; in oiling or cleaning machinery in motion; in stone cutting or polishing; or in assorting, manufacturing or packing tobacco.

(e) In, about or in connection with any establishment where alcoholic liquors are distilled, rectified, compounded, brewed, manufactured, bottled, sold for consumption or dispensed (except he may be employed in places where the sale of alcoholic beverages by the package is merely incidental to the main business actually conducted), or in a pool or billiard room.

(f) In any place of employment, or at any occupation, that is hazardous or injurious to the life, health, safety or welfare of such minor.

(g) In a public bowling alley.

(3) A female minor of such age may not be employed in the distribution or sale of newspapers, magazines or periodicals, or in the street occupations of peddling or bootblacking or in any other occupation pursued in any street or public place. (1948, c. 107, § 3; 1950, c. 105; 1952, c. 178, § 1)

Note: The 1950 amendment to KRS 339.230 created paragraph (g) from a provision previously in paragraph (e), with the result that KRS 339.240 no longer applies to the employment mentioned in paragraph (g).

Alcoholic beverage licensee not to employ person under 21, except in bottling house or office, KRS 244.090.

Safety and health of employes, Ch. 338.

339.240 Minors Between Sixteen and Eighteen, Restrictions on Employment of; Special Restrictions for Females. (1) A minor who

has passed his sixteenth birthday but is under eighteen may be employed, permitted or suffered to work in, about or in connection with any gainful occupation, except as provided in subsections (2) and (3) of this section.

(2) A minor of such age may not be employed, permitted or suffered to work in, about or in connection with any of the occupations enumerated or described in paragraphs (d), (e) and (f) of subsection (2) of KRS 339.230, except that such a minor who is employed under a written apprenticeship agreement that has been approved by the State Apprenticeship Council may perform work in, about or in connection with such enumerated or described occupations if the work is incidental to the apprentice training, is performed intermittently for short periods of time, and is under the direction and supervision of an instructor as a necessary part of the apprentice training.

(3) A female minor of such age may not be employed in the distribution or sale of newspapers, magazines or periodicals, or in the street occupations of peddling or bootblacking or in any other occupation pursued in any street or public place, nor as a messenger for any person, firm or corporation engaged primarily in the business of transmitting or delivering goods or messages. (1948, c. 107, § 4; 1952, c. 178, § 2)

339.250 Furnishing or Selling Articles to Minors for Illegal Sale. No person shall furnish or sell to any minor any article of any description with the knowledge that the minor intends to sell said article in violation of KRS 339.210 to 339.450. No person shall continue to furnish or sell articles of any description to a minor after having received written notice from any officer charged with the enforcement of KRS 339.210 to 339.450, or from the officer issuing employment certificates, that the minor is not permitted to sell such articles. (1948, c. 107, § 5)

No person to permit minor child to sell obscene literature or accounts of bloodshed, lust or crime, KRS 436.110.

339.260 Hours of Employment for Minors. (1) No minor under eighteen years of age shall be employed, permitted or suffered to work in any gainful occupation more than six consecutive days in any one week, nor more than eight hours in any one day, nor more than forty hours in any week, except that the six-day limitation shall not apply to employment as a newsboy in the sale or delivery of newspapers.

(2) No minor under sixteen years of age who is attending school and working outside of the hours he is required to be in attendance at school shall be employed, permitted or suffered to work for more than three hours on a school day or more than twenty-three hours during a school week.

(3) No minor of sixteen or seventeen years of age who is attending school in session during the day other than a part-time or continuation school, and working outside of the hours he is required to be in attendance at school, shall be employed, permitted or suffered to work for more than four hours on a school day or more than twenty-eight hours during a school week.

(4) No minor under fifteen years of age shall be employed, permitted or suffered to work in any gainful occupation before seven o'clock in the morning or after six o'clock in the evening of any day; nor shall any minor fifteen years of age be employed, permitted or suffered to work before seven o'clock in the morning or after eight o'clock in the evening of any day; nor shall any minor of sixteen and seventeen years of age be employed, permitted or suffered to work before six o'clock in the morning or after ten o'clock in the evening of any day, provided that minors between sixteen and eighteen years of age may be employed in a concert or theatrical performance up to 11:00 p. m. (1948, c. 107, § 6; 1952, c. 178, § 3)

339.270 Lunch Period. No minor under eighteen years of age shall be permitted to work for more than five hours continuously without an interval of at least thirty minutes for a lunch period, and no period of less than thirty minutes shall be deemed to interrupt a continuous period of work. (1948, c. 107, § 7)

339.280 Employment Certificates Required. Before any minor under eighteen years of age shall be employed, permitted or suffered to work in, about or in connection with any gainful occupation, the person employing such minor shall procure and keep on file and accessible to any school attendance officer, inspector of labor or other person authorized or charged with the enforcement of KRS 339.210 to 339.450, an employment certificate for such minor as hereinafter provided. (1948, c. 107, § 8)

339.290 Kinds of Employment Certificates; Special Certificates for Minors Incapable of Profiting from Schooling. (1) Employment

certificates shall be of three kinds: General Employment Certificates, Vacation Employment Certificates, and Special Employment Certificates. A general employment certificate shall permit the employment of a minor between sixteen and eighteen, or a minor who has completed high school, during the entire year. A vacation employment certificate shall permit the employment of a minor between fourteen and sixteen during school vacations or outside the hours the minor is required to be in attendance at school. A special employment certificate shall permit the employment during the entire year of a minor fourteen or fifteen years of age who has been excused from compulsory school attendance under the provisions of paragraph (c) or (d) of subsection (1) of KRS 159.030. A special employment certificate shall be issued to a minor who has been so excused from compulsory attendance, upon compliance with the same requirements as in the case of a general employment certificate, except that a schooling record shall not be required. A special employment certificate shall not authorize the employment of a minor in or in connection with or for a factory.

(2) If on account of mental condition a minor has been exempted from attendance at school or recommended by a state child guidance clinic or other approved examiner to be placed in an institution for retarded children, the certificating officer shall issue an employment certificate to such minor only when satisfied that the work available and the supervision under which it will be performed are such that the job is suitable and safe for said minor to undertake. (1948, c. 107, § 9; 1952, c. 178, § 4)

339.300 Who to Issue Certificates; Rules as to Form and Conditions. The employment certificates required by KRS 339.210 to 339.450 shall be issued by the local board of education through its superintendent or other authorized agent, in such form and under such conditions as may be prescribed by the Department of Education; provided, that in any county containing a city of the first or second class, probation officers may issue the special employment certificates provided for in KRS 339.290, in accordance with the regulations prescribed, and upon the forms furnished, under KRS 339.310. (1948, c. 107, § 10; 1952, c. 178, § 5)

339.310 Regulations for Issuance of Employment and Age Certificates; Furnishing of Blank Forms; Duplicates. The Department of Education shall prescribe such rules and regulations for the issu-

ance of employment certificates and age certificates as will promote uniformity and efficiency in the administraiton of KRS 339.210 to 339.450. It shall also supply to local issuing officers all blank forms to be used in connection with the issuance of such certificates. Duplicates of each employment or age certificate shall be mailed by the issuing officer to the Department of Labor within one week after issuance. (1948, c. 107, § 11)

339.320 Denial of Certificate. A person designated to issue employment certificates may refuse to grant such a certificate if in his judgment the best interests of the minor would be served by such refusal. (1948, c. 107, § 12)

339.330 Revocation or Cancellation of Certificate. The Department of Labor, the Superintendent of Public Instruction, or the officer issuing any employment certificate or age certificate, may revoke any such certificate if in its or his judgment it was improperly issued or if the minor is illegally employed, and may cancel any employment certificate or age certificate at any time it is found that the conditions for its legal issuance do not exist. The employer shall be notified of such revocation or cancellation in writing, and such minor shall not thereafter be employed or permitted to work until a new certificate has been legally obtained. If the revocation or cancellation is made other than by the Department of Labor, the department shall be notified thereof in writing, and if the revocation or cancellation is made other than by the issuing officer, such officer shall be notified thereof in writing. (1948, c. 107, § 13)

339.340 Application for Certificate; What Must Contain; Evidence of Age; Physical Examination; School Record. The person designated to issue employment certificates shall issue such certificates only upon the application in person of the minor desiring employment, accompanied in case he is under sixteen years of age by his parent, guardian, or the person having control or custody of him, and after having approved and filed the following papers:

(1) A promise of employment signed by the prospective employer or by one duly authorized by him, setting forth the specific nature of the occupation in which he intends to employ such minor, and the number of hours per day and days per week which said minor shall be employed.

(2) Evidence of age showing that the minor is of the age required by KRS 339.210 to 339.450, which evidence shall consist of one of the following proofs of age and shall be required in the order herein designated, as follows:

(a) A duly attested transcript of the birth certificate filed according to law with a register of vital statistics, or other officer charged with the duty of recording births, or;

(b) A baptismal certificate or transcript of the record of baptism, duly certified and showing the date and place of birth, or;

(c) Other documentary record of age (other than a school record not based on school census or an affidavit of age) such as a bible record, school census record, passport or transcript thereof, duly certified; or life insurance policy which shall appear to the satisfaction of the issuing officer to be good and sufficient evidence of age, or;

(d) In the case none of the aforesaid proofs of age shall be obtainable, and only in such case, the issuing officer may accept the signed statement of the physician authorized to make the physical examination required by this section, stating that, after examination, it is his opinion that the minor has attained the age required by law for the occupation in which he expects to engage. Such statement shall be accompanied by an affidavit, signed by the minor's parent or guardian, certifying to the name, date and place of birth of the minor and that the proofs of age specified in the preceding paragraphs of this subsection cannot be produced.

(3) A statement of physical fitness, signed by a public health or public school physician, or in case there are no such physicians available, by a private physician who has examined the minor, certifying the medical examination of the minor shows that he is physically fit to be employed at the work he intends to do, or to be employed at such work under limitations specified in the statement. If the statement of physical fitness is limited, the employment certificate issued thereon shall state clearly the limitations upon its use, and shall be valid only when used under the limitations so stated. In any case, where the physician shall deem it advisable, he may issue a certificate of physical fitness for a specified period of time, at the expiration of which the person for whom it was issued shall appear and be re-examined before being permitted to continue to work. Such examination shall be made in accordance with standards and procedures prescribed by the Superintendent of Public Instruction in consultation with the Commissioner of Health and Com-

missioner of Labor, and shall be recorded on a form furnished by the Department of Education. Where examinations are given by public health or public school physicians, they shall be made without charge to the minor.

(4) A school record signed by the principal of the school which the minor last attended or by someone duly authorized by him, giving the full name, date of birth, grade last completed, scholastic standing and residence of the minor. (1948, c. 107, § 14)

339.350 Oaths; No Fee for Certificates; Contents of Certificates; Issuance in Triplicate. (1) The officer authorized to issue employment certificates shall administer the oaths required by KRS 339.340, but no fee shall be charged for administering the oaths or for issuing the certificate.

(2) The certificate shall be issued in triplicate. One copy shall be mailed to the prospective employer of the minor for whom it is issued, one shall be sent to the Department of Labor, and one copy shall be kept on file in the issuing office. It shall be signed by the issuing officer and by the minor for whom it is issued in the presence of such officer. It shall contain the name and address of the child, the name and address of the employer, the industry and occupation in which the minor is to be employed, the type of evidence of age accepted, and such other information as the Department of Education shall require. (1948, c. 107, § 14)

339.360 Age Certificates, Issuance of. Upon request, it shall be the duty of the officer authorized to issue employment certificates to issue to any minor between the age of eighteen and twenty-one years desiring to enter employment a certificate of age upon presentation of the same proof of age as is required for the issuance of employment certificates under KRS 339.210 to 339.450. (1948, c. 107, § 15)

339.370 Employment or Age Certificate as Evidence of Age in Other Proceedings. An employment certificate or certificate of age duly issued shall be conclusive evidence of the age of the minor for whom issued in any proceeding involving the employment of the minor under the child labor or workmen's compensation law or any other labor law of the state, as to any act occurring subsequent to its issuance. (1948, c. 107, § 16)

Effect of age certificate on right to recover workmen's compensation, KRS 342.065, 342.170.

339.380 Part-time Schools. School districts may organize part-time schools and any child to whom an employment certificate is issued may be required to attend such school. (1948, c. 107, § 17)

339.390 Duties of Employer with Respect to Certificate; Certificate Valid Only for Designated Employment; Evidence of Illegal Employment. (1) Every employer receiving an employment certificate shall, upon the commencement of the employment of such minor, so notify the issuing officer in writing, and immediately after termination of the employment shall return said certificate to the issuing officer. A new certificate shall not be issued for any minor except upon presentation of a new promise of employment and a new certificate of physical fitness. An employment certificate shall be valid only for the employer for whom issued and for the occupation designated in the promise of employment.

(2) Said employer shall, during the period of the child's employment, keep such certificate on file at the place of employment and accessible to any issuing officer, attendance officer, inspector, or other person authorized to enforce KRS 339.210 to 339.450. The failure of any employer to produce for inspection such employment certificate, or the presence of any minor under eighteen years of age in his place of work at any time other than that specified in the posted schedule of hours required by KRS 339.210 to 339.450, shall be prima facie evidence of the unlawful employment of the minor, except that in common meeting places such as drug stores and neighborhood stores, actual evidence of employment other than mere presence must be obtained. (1948, c. 107, § 18)

339.400 Employer's Register; Posting Copy of Law and Working Hours. Every person employing minors under eighteen years of age shall keep a separate register containing the names, ages and addresses of such employes, and the time of commencing and stopping work for each day, and the time of the beginning and ending of the daily meal period, and shall post and keep conspicuously posted in the establishment wherein any such minor is employed, permitted or suffered to work, a printed abstract of KRS 339.210 to 339.450, and a list of the occupations prohibited to such minors, together with a notice stating the working hours per day for each day in the week required of them. These records and files shall be open at all times to the inspection of the school attendance and probation officers, and

representatives of the Department of Labor and the Department of Education. (1948, c. 107, § 19)

339.410 Female Employes Not to Be Kept Standing Constantly. No female under twenty-one years shall be employed or permitted to work at any occupation that compels her to remain standing constantly. (1948, c. 107, § 20)

Female employes to be provided with seats, KRS 338.110.

339.420 Limewashing or Painting Walls and Ceilings of Work Places. The walls and ceilings of each room in every manufacturing establishment where minors are employed shall be limewashed or painted when, in the opinion of the Commissioner of Labor, it would be conducive of the health or cleanliness of the persons working there. (1948, c. 107, § 21)

339.430 Machinery Used in School Courses. Nothing in KRS 339.210 to 339.450 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 general industrial safety standards as to supplying safeguards for the protection of those using such machinery. (1948, c. 107, § 22)

339.440 Safeguards for Machinery. In any manufacturing establishment where any person under twenty-one years of age is employed, the owner, his agent, superintendent or person in charge shall furnish and maintain when practicable, belt shifters or other safe mechanical contrivances to throw belts on or off pulleys. Whenever practicable, machinery therein shall be provided with loose belts. All vats, pans, saws, planes, cogs, gearings, belting, set screws and machinery which is palpably dangerous shall be properly guarded. No person shall remove or make ineffective any safeguard around or attached to any such appliance or machinery, while in use, except to make immediate repairs. All such safeguards shall be promptly replaced. (1948, c. 107, § 23)

Safety and health of employes, KRS Ch. 338.

339.450 Enforcement of Law; Right to Enter and Inspect Premises and Records. (1) It shall be the duty of the Department of

Labor and of the inspectors and agents of said department, with the assistance of the school attendance officers, police officers and juvenile court probation officers, to enforce the provisions of KRS 339.210 to 339.450, to make complaints against persons violating the provisions of those sections, and to prosecute violations thereof. The Department of Labor, its inspectors and agents shall have authority to enter and inspect at any time any place or establishment covered by KRS 339.210 to 339.450, and to have access to employment certificates kept on file by the employer and such other records as may aid in the enforcement of KRS 339.210 to 339.450. School attendance officers are likewise empowered to visit and inspect places where minors may be employed, and shall report any cases of employment that they find in violation of KRS 339.210 to 339.450 to the Department of Labor.

(2) Any person authorized to enforce KRS 339.210 to 339.450 may require an employer of a minor for whom an employment certificate is not on file either to furnish him within ten days the evidence required for an employment certificate showing that the minor is at least eighteen years of age or to cease to employ or permit or suffer such minor to work. Proof of the making of such demand and of failure to deliver such proof of age shall be prima facie evidence, in any prosecution brought for violation of KRS 339.210 to 339.450, that such minor is under eighteen years of age and is unlawfully employed. (1948, c. 107, § 24)

Directors of Pupil Personnel may investigate places where children are employed, KRS 159.130.

339.460 Exemption of Minors Employed at Least Ninety Days Prior to June 17, 1948. (1) Minors sixteen and seventeen years of age who have been lawfully employed for a period of at least ninety days prior to June 17, 1948, shall be exempt from the provisions of KRS 339.210 to 339.450.

(2) Minors fourteen and fifteen years of age who have been lawfully employed during school hours for a period of at least ninety days prior to June 17, 1948, may continue to be so employed subject to all other provisions of KRS 339.210 to 339.450, notwithstanding the provisions of subsection (1) of KRS 339.230. (1948, c. 107, § 28)

339.990 Penalties. Whoever employs or permits or suffers any minor to be employed or to work in violation of KRS 339.210 to 339.450, or of any order or ruling issued under the provisions thereof, or obstructs the Department of Labor, its officers, or agents,

or any other person authorized to inspect places of employment under KRS 339.210 to 339.450, or whoever, having under his control or custody any minor, permits or suffers him to be employed or to work in violation of KRS 339.210 to 339.450, or who sells to a minor any article with the knowledge that the minor intends to sell said article in violation of KRS 339.210 to 339.450 shall be fined not less than twenty-five nor more than one hundred dollars. Every employer who continues to employ a minor in violation of KRS 339.210 to 339.450 after he has been notified by the Department of Labor, its officers or agents, shall be fined twenty-five dollars for each day the violation continues and the employment of any minor in violation of KRS 339.210 to 339.450 shall with respect to each minor so employed constitute a separate and distinct offense. (Old KRS 339.990 repealed and new one substituted, 1948, c. 107, § § 25, 26)

Parent responsible for violation of school attendance law by child, after notice of violation, KRS 159.180.

MILLERS TOLLS

363.100 [2721] **Millers, Regulations and Tolls.** (1) Every owner or operator of a mill grinding meal, flor, 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; 4823; 4823a–1; 4823b–3] **Penalties.** (4) 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.

LEGAL NOTICES

424.110 Definitions. As used in KRS 424.110 to 424.370 (1) "Publication area" means the city, county, district or other local area for which an advertisement is required by law to be

made. An advertisement shall be deemed to be for a particular city, county, district or other local area if it concerns an official activity of such city, county, district or other area or of any governing body, board, commission, officer, agency or court thereof, or if the matter of which advertisement is made concerns particularly the people of such city, county, district or other area;

(2) "Advertisement" means any matter required by law to be published. (1958, c. 42, § 1; 1960, c. 168, § 1; effective June 16, 1960)

Lyon v. County of Warren, 325 S.W. (2d) 302. 1958. Statute defining and dealing generally with publication of legal notices supercedes and effectually repeals all other conflicting statuatory provisions.

424.120 Qualifications of Newspapers. (1) Except as provided in subsection (2), whenever an advertisement for a publication area is required by law to be published in a newspaper, the publication must be made in a newspaper that meets the following requirements:

(a) It must be published in the publication area. A newspaper shall be deemed to be published in the area if it maintains a known office in the area for the purpose of gathering news and soliciting advertisements and other general business of newspaper publications, and has a second-class mailing permit issued for that office. A newspaper printed outside of Kentucky shall not be eligible to publish advertisements for any county or publication area within the county, other than for the city in which its main office is located, if there is a newspaper printed in the county that has a substantial general circulation throughout the county and that otherwise meets the requirements of this section; and

(b) It must be of regular issue and have the largest bona fide circulation in the publication area. A newspaper shall be deemed to be of regular issue if it is published regularly, as frequently as once a week, for at least fifty weeks during the calendar year as prescribed by its mailing permit, and has been so published in the area for the immediately preceding one-year period. A newspaper shall be deemed to be of bona fide circulation in the publication area if it is circulated generally in the area, and maintains a definite price or consideration not less than fifty per cent of its published price, and is paid for by not less than fifty per cent of those to whom distribution is made; and

(c) It must bear a title or name, consist of not less than four pages without a cover, and be of a type to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscel-

laneous reading matter, advertisements, and other notices. The news content must be at least twenty-five per cent of the total column space in more than one-half of its issues during any twelve-month period.

(2) If, in the case of a publication area smaller than the county in which it is located, there is no newspaper published in the area, the publication shall be made in a newspaper published in the county that is qualified under this section to publish advertisements for the county. If, in any county there is no newspaper meeting the requirements of this section for publishing advertisements for such county, any advertisements required to be published for such county or for any publication area within the county shall be published in a newspaper of the largest bona fide circulation in that county, published in and qualified to publish advertisements for an adjoining county in Kentucky. This subsection is intended to supersede any statute that provides or contemplates that newspaper publication may be dispensed with if there is no newspaper printed or published or of general circulation in the particular publication area.

(3) If a publication area consists of a district, other than a city, which extends into more than one county, the part of the district in each county shall be considered to be a separate publication area for the purposes of this section, and an advertisement for each such separate publication area shall be published in a newspaper qualified under this section to publish advertisements for such area. (1958, c. 42, § 2; 1960, c. 168, § 1; effective June 16, 1960)

424.130 Times and Periods of Publication. (1) Except as otherwise provided in KRS 424.110 to 424.370 and notwithstanding any provision of existing law providing for different times or periods of publication, the times and periods of publications of advertisements required by law to be made in a newspaper shall be as follows:

(a) When an advertisement is of a completed act, such as an ordinance, resolution, regulation, order, rule, report, statement, or certificate and the purpose of the publication is not to inform the public or the members of any class of persons that they may or shall do an act or exercise a right within a designated period or upon or by a designated date, the advertisement shall be published one time only and within thirty days after completion of the act. However, a failure to comply with this paragraph shall not subject a person

to any of the penalties provided by KRS 424.990 unless such failure continues for a period of ten days after notice to comply has been given him by registered letter.

(b) When an advertisement is for the purpose of informing the public or the members of any class of persons that on or before a certain day they may or shall file a petition or exceptions or a remonstrance or protest or objection, or resist the granting of an application or petition, or present or file a claim, or submit a bid, the advertisement shall be published at least once, but may be published two or more times, provided that one publication occurs not less than seven days nor more than twenty-one days before the occurrence of the act or event.

(c) When an advertisement is for the purpose of informing the public and the advertisement is of a sale of property or is a notice of delinquent taxes, the advertisement shall be published once a week for three successive weeks. The provisions of this paragraph shall not be construed to require the advertisement of notice of delinquent state taxes which are collected by the state.

(d) Any advertisement not coming within the scope of paragraph (a) or (b) or (c) of this subsection, such as one for the purpose of informing the public or the members of any class of persons of the holding of an election, or of a public hearing, or of an examination, or of an opportunity for inspection, or of the due date of a tax or special assessment, shall be published at least once but may be published two or more times, provided that one publication occurs not less than seven days nor more than twenty-one days before the occurrance of the act or event, or in the case of an inspection period, the inspection period commences.

(e) If the particular statute requiring that an advertisement be published provides that the day upon or by which, or the period within which, an act may or shall be done or a right exercised, or an event may or shall take place, is to be determined by computing time from the day of publication of an advertisement, the advertisement shall be published at least once, promptly, in accordance with the statute, and the computation of time shall be from the day of initial publication.

(2) This section is not intended to supersede or affect any statute providing for notice of the fact that an adversary action in court has been commenced. (1958, c. 42, § 3; 1960, c. 168, § 1; effective June 16, 1960)

Pierson Trapp Co. v. Peak, 340 S. W. (2d) 456. 1960. Under statute requiring notice to be published "once a week for three successive weeks," rezoning was not invalidated by fact that there was period of only 11 days between first and last of three notices of public hearing.

424.140 Contents or Form of Advertisements. (1) Any advertisement of a hearing, meeting or examination shall state the time, place and purpose of the same.

(2) Any advertisement of an election shall state the time and purpose of the election, and if the election is upon a public question the advertisement shall state the substance of the question.

(3) Any advertisement for bids or of a sale shall describe what is to be bid for or sold, the time and place of the sale or for the receipt of bids, and any special terms of the sale.

(4) Where any statute provides that, within a specified period of time after action by any governmental agency, unit or body, members of the public or anyone interested in or affected by such action shall or may act, and it is provided by statute that notice of such governmental action be published, the advertisement shall state the time and place when and where action may be taken. (1958, c. 42, § 4; 1960, c. 168, § 1; effective June 16, 1960)

424.150 Person Responsible for Publishing. When any statute providing for newspaper publication of an advertisement does not designate the person responsible for causing the publication to be made, the responsible person shall be:

(1) Where the advertisement is of the filing of a petition or application, the person by whom the same is filed.

(2) Where the advertisement is of an activity or action of:

(a) An individual public officer, the officer himself.

(b) A city, the city clerk if there be one; if not, the mayor or the chairman of the board of trustees.

(c) A county, the county court clerk.

(d) A district, or a board, commission or agency of a city, county or district, the chief administrative or executive officer or agent thereof.

(e) A court, the clerk thereof.

(f) A state department or agency, the head thereof. (1958, c. 42, § 5; 1960, c. 168, § 1; effective June 16, 1960)

424.160 Rates. (1) For all newspaper advertising required by law, the publisher is entitled to receive payment for each insertion

at a rate per linear inch, single column, computed as solid eight-point measure. The rate shall not exceed that paid by general advertisers for comparable matter, but in no case shall it be less than $1.00 per linear inch for weekly newspapers and $1.50 per linear inch for daily newspapers.

(2) Whenever by law or by the nature of the matter to be published a display form of advertisement is required, or whenever the person or officer responsible for causing an advertisement to be published determines in his discretion that a display form is practicable or feasible, and so directs the newspaper, the advertisement shall be published in display form and the newspaper shall be entitled to receive therefor its established display rate.

(3) Whenever it is provided by statute that an advertisement shall be published of the filing of a petition or application seeking official action, the filing, if required by other than a governmental official or agency, shall not be deemed complete unless there is deposited with the petition or application an amount sufficient to pay the cost of publication.

(4) The expense of advertisements in judicial proceedings shall be taxed as costs by the clerk of the court. (1958, c. 42, § 6; 1960, c. 168, § 1; effective June 16, 1960)

424.170 Proof of Publication. The affidavit of the publisher or proprietor of a newspaper, stating that an advertisement has been published in his newspaper and the times it was published, attached to a copy of the advertisement, constitutes prima facie evidence that the publication was made as stated in the affidavit. (1958, c. 42, § 7; effective June 19, 1958)

MATTERS REQUIRED TO BE PUBLISHED

424.220 Financial Statements. Excepting officers of a city of the first class, a county containing such a city, a public agency of such a city or county, or a joint agency of such a city and county, or of a school district of such a city or county, and excepting officers of a city of the second class that is required by law to publish an annual audit of its financial affairs, every public officer of any school district, city, county, or subdivision or district less than a county, whose duty it is to collect, receive, have the custody, control or disbursement of public funds, and every officer of any board or commission

of a city, county or district whose duty it is to collect, receive, have the custody, control or disbursement of funds collected from the public in the form of rates, charges or assessments for services or benefits, 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, unless he has complied with KRS 424.230. The statement shall show the amount of funds collected and received, from what sources received, the amount disbursed, the date of each disbursement, for what purpose expended, and to whom paid, except that only the totals of amounts paid to each individual as salary or commission and public utility bills need to be shown. The officer shall procure and include in or attach to the statement 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 funds to the credit of the officer making the statement. The officer shall, within 60 days after the close of the fiscal year, cause the statement to be published in full in a newspaper qualified under KRS 424.120 to publish advertisements of the city, county or district, as the case may be. Promptly after the publication is made, the officer shall file a written or printed copy of the advertisement with proof of publication, in the office of the county court clerk of the county. Within 30 days after publication the officer shall file with the Auditor of Public Accounts a copy of the newspaper containing the statement. (1958, c. 42, § 12; 1960, c. 168, § 1; 1962, c. 170); effective June 14, 1962)

424.230 Optional Monthly or Quarterly Statements. Any officer who is subject to the provisions of KRS 424.220 may elect to prepare and publish monthly or quarterly statements, in lieu of the annual statements required by KRS 424.220. All of the provisions of KRS 424.220 shall be applicable to such a monthly or quarterly statement except that (1) the statement shall cover only the preceding month or quarter, as the case may be, and (2) the publication shall be made within 30 days after the end of the month or quarter, as the case may be. Any officer who has elected to proceed under this section shall not be exempted from the requirements of KRS 424.220 for any fiscal year unless he has caused to be prepared and published, in accordance with this section, a proper statement for each month or quarter of the fiscal year. (1958, c. 42, § 13)

424.250 School District Budget. At the same time that copies of the budget of a school district are filed with the clerk of the tax levying authority for the district, as provided in KRS 160.470, the board of education of the district shall cause the budget to be advertised for the district by publishing a copy of the budget in a newspaper. (1958, c. 42 § 15)

424.260 Bids for Materials, Supplies, Equipment or Services. Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county or district, or board or commission of a city or county, may make a contract for materials, supplies or equipment, or for contractual services other than professional, involving an expenditure of more than $1,000.00 without first making newspaper advertisement for bids. Provided, however, that this requirement shall not apply in an emergency if the chief executive officer of such city, county or district has duly certified that an emergency exists, and has filed a copy of such certificate with the chief financial officer of such city, county, or district. (1958, c. 42, § 16; 1960, c. 168, § 1; effective June 16, 1960)

424.270 Local Administrative Regulations. No general regulation of uniform application throughout the publication area promulgated by any officer, board or commission of a city, county, or district, which is intended to impose liabilities or restrictions upon the public shall be valid unless and until it, or a notice of such promulgation, together with a statement where the original regulation may be examined by the public, has been advertised by newspaper publication. (1958, c. 42, § 17; 1960, c. 168, § 1; effective June 16, 1960)

424.290 Election Ballot. (1) Not less than three days before any primary or regular election the county court clerk shall cause to be published in a newspaper a copy of the ballot or ballots, or when voting machines are to be used, of the face of the voting machines. Where the ballots or voting machine faces differ for various precincts within the county, a copy of each different ballot or voting machine face shall be published, with appropriate identification. The cost of publication shall be paid by the county, except that the cost of publishing any ballot or voting machine face that is limited to a city election or a district election other than a school

district election, shall be paid by the city or the district as the case may be.

(2) "Copy", as used in subsection (1) of this section, means a summary of a ballot or voting machine face showing all the pertinent inforamtion that will appear on a particular ballot or voting machine face. (1958, c. 42, § 19; 1960, c. 168, § 1; 1962, c. 213; effective June 14, 1962)

424.330 Delinquent Taxes. Whenever the sheriff of any county files with the fiscal court a list of uncollectible delinquent taxes, in accordance with KRS 134.360 and 134.370, the fiscal court shall promptly cause such list, showing the name of and amount due from each delinquent taxpayer, to be advertised by newspaper publication. A fee of one dollar shall be added to the amount of each tax claim so published, as publication costs. (1958, c. 42, § 23; effective June 19, 1958)

424.360 Invitation to Bid on Municipal Bonds. No sale of general obligation bonds or revenue bonds of any governmental unit or political subdivision, or agency thereof, shall be made except upon newspaper advertisements for bids, published for the publication area constituted by the political subdivision or government unit and published to afford statewide notice. If the bonds are in principal amount of fifty thousand dollars or more, an advertisement for bids shall also be published in a publication having general circulation among bond-buyers. (1958, c. 42, § 26; 1960, c. 168, § 1; effective June 16, 1960)

424.990 Penalties. Any person who violates any provision of KRS 424.110 to 424.370 shall be fined not less than $50 nor more than $500. In addition, any officer who fails to comply with any of the provisions of KRS 424.220, 424.230, 424.240, 424.250, 424.290 or 424.330 shall, for each such failure, be subject to a forfeiture of not less than $50 nor more than $500, in the discretion of the court, which may be recovered only once, in a civil action brought by any citizen of the city, county or district for which the officer serves. The costs of all proceedings, including a reasonable fee for the attorney of the citizen bringing the action, shall be assessed against the unsuccessful party. (1958, c. 42, § 28; 1960, c. 168, § 1; effective June 16, 1960)

ATTACHMENT OF TEACHERS' SALARIES

427.130 Salaries of Public Officials and Employes and Sums Due From Governmental Agencies Are Subject to Attachment or Garnishment; Service of Process. Salaries or other sums due state, county, city and school board officers and employes shall be subject to attachment or garnishment. (1942, c. 102, § § 1, 2; 1948, c. 188, § 1)

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 nor 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 aganist the subdistrict trustee.

Bribery in school system, KRS 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, court house, 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, § § 1, 2)

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

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156.440 Publishers to furnish textbook samples to local boards of education; adoption of basal texts by local boards; use of books on state multiple list in district not making textbook adoptions; certification of adopted book list.
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156.460 School official or employe not to act as book agent.
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156.472 Textbook adoptions and purchases for model and practice schools.
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156.620 Applications for scholarships; standards; examination.
156.630 Conditions for awarding scholarships; requirements; priority.
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156.650 When effective.
156.990 Penalties.

KRS 156.010 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 the administrative functions of the state in relation to the management and control of the public common schools, of vocational education and rehabilitation of West Kentucky Vocational School, the Kentucky School for the Blind and the Kentucky School for the Deaf, and may exercise certain powers and functions relating to Area Vocation Schools, and relating to television in aid of education and other proper public functions, as provided in KRS 156.070.

(3) The Kentucky School for the Deaf Advisory Board 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. (1952, c. 41, § 1; 1962, c. 13, § 1; effective February 13, 1962)

Hogan v. Kentucky State Board of Education, 329 S.W. (2d) 563. School laws contemplated that state board of education take action only upon recommendation of superintendent of public instruction; and superintendent's discretion, with regard to recommending removal of members of county board of education, could not be controlled by mandamus.

156.020 Appointment of Assistant Superintendent of Public Instruction; Divisions of Department. The Superintendent of Public Instruction shall recommend to the State Board of Education the appointment of an Assistant Superintendent of Public Instruction who is authorized to act in the absence of the Superintendent of Public Instruction. Subject to KRS Chapter 12, the Superintendent of Public Instruction shall also recommend for the approval of 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 State Board of Education. He may group the established divisions under such bureaus as he deems wise. (1956, c. 7, Art. II § 1)

156.022 Division of Surplus Property. (1) There shall be established a Division of Surplus Property in the Department of Education.

(2) The Division of Surplus Property is authorized and empowered to receive, warehouse, and distribute surplus property under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, and other federal laws relating to surplus property. The division shall comply with federal laws and regulations in the administration of surplus property received through federal agencies, and shall establish with the approval of the State

Board of Education such rules and regulations necessary for compliance with minimum standards established therein.

(3) All functions, personnel, funds, records, equipment, and facilities heretofore in the Division of Property Utilization shall be transferred to the Division of Surplus Property and the Division of Property Utilization is hereby abolished. (1960, c. 68, Art. III, § § 1, 2, 3; effective March 17, 1960)

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 seven lay members. The board shall elect a chairman from among its members at its first regular meeting in each fiscal year. Beginning with 1940 the Governor shall appoint two 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 member for a term of four years to take the place of the member whose term expires that year. The term of each member of the board shall begin on July 1 in the year in which the member is appointed. In the case of a vacancy the Governor shall fill the vacancy for the unexpired term. Members appointed to take the place of members whose terms expire after January 6, 1964 shall be appointed from the districts established by KRS 21.120 in the numerical order of the districts. The board shall be a corporation by the name of the Kentucky State Board of Education, with the usual corporate powers. (1962, c. 244, Art. III, § 1)

Note: The 1962 amendment to KRS 156.030 takes effect January 6, 1964. Until then, KRS 156.030 (1960 edition) remains in effect, reading as follows:

"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."

156.035 Legal Status of Board. The Kentucky State Board of Education is recognized to be a public body corporate and politic, and an agency and instrumentality of the Commonwealth in the performance of essential governmental functions. (1962, c. 13, § 2; effective February 13, 1962)

156.040 [4377-5] **Qualifications of Board Members.** The members of the State Board of Education shall have the same qualifica-

tions 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 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. (1962, c. 244, Art. III, § 3)

Note: The 1962 amendment to KRS 156.040 takes effect January 6, 1964. Until then, KRS 156.040 (1960 edition) remains in effect, reading as follows:

"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."

Qualification 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 not less than 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 two members the chairman shall call a special meeting of the board to be held not later than twenty days following receipt of the written request. 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 twenty-five 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 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. (1942, c. 201, § § 1, 2; 1962, c. 244, Art. III, § 2; effective July 1, 1962)

156.070 General Powers and Duties of Board. (1) The State Board of Education shall have the management and control of the common schools, public vocational education and vocational rehabilitation, West Kentucky Vocational School, and the Kentucky School for the Blind.

(2) It is hereby authorized to purchase, lease, rent, or erect one or more buildings in the following cities or counties: Ashland, Harlan County, Hazard, Jefferson County, Madisonville, Somerset and Warren County, in order to establish and provide for the operation of schools for the purpose of making available facilities for vocational training, according to curricula established and approved by the board, and to be operated in accordance with the State Plan for Vocational Education and policies of the board. The management and operation of these schools, including all duties, powers, rights, purposes, responsibilities, properties and funds, are vested in the board. In addition to such appropriations of state funds as may be made to the board for such schools, the board may receive therefor grants, contributions, matching funds, gifts, devises and bequests from any source, whether federal or state, public or private.

(3) (a) It is hereby authorized to lease from the State Property and Buildings Commission, or others, whether public or private, any lands, buildings, structures, installations and facilities suitable for use in establishing and furthering television as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. Any such lease may be for any initial term commencing with the date of such lease and ending with the next ensuing June 30 which is the close of the then current fiscal biennium of the Commonwealth with exclusive options in favor of the board to renew the same for successive ensuing bienniums (July 1 in each even year to June 30 in the next ensuing even year); and the rentals may be fixed at such sums in each biennium, if renewed, as will be sufficient to enable the State Property and Buildings Commission to pay therefrom the maturing principal of and interest on (and provide reserves for) any revenue bonds which said State Property and Buildings Commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring such television facilities, with appurtenances and such costs as may be incident to the issuance of such bonds.

(b) That each such option of the State Board of Education

to renew the lease for succeeding biennial term may be exercised at any time after the adjournment of the session of the General Assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the State Property and Buildings Commission in writing, signed by the Superintendent of Public Instruction and delivered to the Commissioner of Finance as a member of said commission; provided, however, that such option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the Commissioner of Finance before the close of business on the last working day in April immediately preceding the beginning of such succeeding biennium.

(c) The board shall not itself operate such leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the Superintendent of Public Instruction and the Department of Education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any such contract for the operation of the leased television facilities may permit limited and special uses of the television facilities for other programs in the public interest, subject to such reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any such contract shall affirmatively forbid the use of the television facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the State Property and Buildings Commission shall bind the board to pay rentals for more than one fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any such lease and to the cost of providing for the operation of such television facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises and be-

quests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television facilities in a manner inconsistent with the provisions of this subsection.

(4) The State Board of Education may, on the recommendation and with the advise 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 published or distributed by the board shall be enclosed in a booklet or binder on which the words "Informational Copy" shall be clearly stamped or printed.

(5) In its capacity as a board of control for the West Kentucky School, the board may receive by any legal mode of conveyance, and hold and enjoy, property of any description. (1952, c. 41, § 2; 1962, c. 13, § 3; effective February 13, 1962)

Teachers' certificates, State Board of Education may revoke, KRS 161.120.

Bell et al. v. Board of Education of Shelby County, 308 Ky. 848, 215 S. W. (2d) 1007. Undertaking by county board of education to erect a new high school building issue revenue bonds to finance the project without submiting revised financial program in the form of an amended or supplemental budget to State Board of Education and obtaining its approval thereof was without legal authority and subject to injunction. (December 17, 1948.)

Nethery v. McMullin, 313 Ky. 39, 230 S. W. (2d) 79. Regulation of Superintendent of Public Instruction, approved by State Board of Education requiring a minimum of sixty students for maintenance of a high school, is valid.

156.074 Purchase Contract For Supplies, Equipment; Specifications; Terms. The State Board of Education, upon requisition to the Division of Purchases in the Department of Finance, is authorized to secure price contract agreements for the purchase of supplies and equipment by district boards of education. The board by regulation shall specify the particular types of supplies and equipment for which contracts shall be secured and may revise such lists from time to time. The board, in consultation with the Division of Purchases, shall fix standards of quality and quantity and shall develop standard specifications for such supplies and equipment. The Division of Purchases shall enter into price contract agreements under the provisions of KRS 42.060 and 42.070. Such contracts shall establish sources of supply, maximum prices to be paid, and shall set forth the length of time for which such contracts shall be valid, not to exceed one year. (1962, c. 244, Art. II, § 6; effective June 14, 1962)

156.076 Price Contracts Information to Be Furnished District Boards; Purchase Conditions. The Superintendent of Public Instruction shall furnish full information on established price contracts to each district board of education. Any board of education may purchase supplies and equipment from the vendor to whom the contract has been awarded, under the terms of the contract. Any board of education may advertise for its own bids on supplies and equipment which meet the specifications of the contracts awarded by the Division of Purchases. Any board of education, after advertising for bids, may award contracts if the Superintendent of Public Instruction certifies that such a bid offers supplies and equipment which meets the standards and specifications fixed by the State Board of Education and that the bid price is lower than that established by the price contract agreement. (1962, c. 244, Art. II, § 7; effective June 14, 1962)

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.

156.095 Program of In-service Teacher Training. The State Department of Education is hereby authorized to establish, direct and maintain a state-wide program of in-service teacher training. Said program shall be organized and operated for the purpose of improving instruction in the public common schools and for the improvement of the leadership qualities and professional competence of principals, supervisors and teachers and for such other services in the improvement of instruction in the public common schools as

may be approved from time to time by the State Board of Education on the recommendation of the Superintendent of Public Instruction. (1950, c. 127, § 1; 1956, 1st ex. s., c. 7, Art. II, § 2)

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, §§ 1, 2)

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

(2) 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)

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.)

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 and public vocational education and

vocational rehabilitation. He may clothe his assistants with full power of attorney to act for him in the superivision, inspection and administration of the schools over which he has supervisory and administrative control. (1952, c. 41, § 3)

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.)

PROCEDURE IN SCHOOL BOARD CAUSES

156.132 Removal or Suspension of School Officers; Procedure, Grounds, Conditions. (1) The Superintendent of Public Instruction or the State Board of Education shall recommend, by written charges to the proper school authorities having immediate jurisdiction, the removal of any superintendent of schools, principal, teacher or other public school officer who in his or their opinion is guilty of immorality, misconduct in office, incompetency or willful neglect of duty.

(2) The Superintendent of Public Instruction shall recommend by written charges the suspension by the State Board of Education of any district board member or superintendent of schools who in his opinion is guilty of immorality, misconduct in office, incompetency or willful neglect of duty. The State Board of Education shall, after a summary hearing as provided by regulations, suspend any district board of education member or superintendent of schools, who in the opinion of the majority of the State Board of Education is guilty of gross immorality, misconduct in office, incompetence or willful neglect of duty. Such action by the State Board of Education may be taken upon a recommendation of the Superintendent of Public Instruction, or such action may be taken by a majority vote of the State Board of Education without recommendation from the Superintendent of Public Instruction.

(3) The State Board of Education may suspend a district superintendent of schools under subsection (2) of this section only if after 30 days of receipt of the written charges specified in subsection (1) of this section, the district board of education has refused to act, has acted in bad faith, arbitrarily or capriciously, or if a recommendation to the district board would have been futile. (1962, c. 244, Art. I, § 1; effective June 14, 1962)

156.134 Notice of Suspension; Answer; Hearing; Appeal. (1) Any officer suspended by the State Board of Education under sub-

section (2) of KRS 156.132 shall be furnished with a written statement, specifying in detail the reasons for suspension and naming a date and place at which the officer may appear before the State Board of Education to answer the charges. The date shall be not less than twenty nor more than thirty days after the service of such charges upon the officer. Within ten days after receipt of the charges, the officer may notify the State Board of Education of his intention to appear and answer such charges. If the officer fails to notify the board of his intention to appear and answer such charges, the State Board of Education may remove the officer by a majority vote and such dismissal shall be final.

(2) Upon receipt of the officer's notice of intention to appear and answer such charges, the State 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 State Board of Education. Both parties may be represented by counsel and may require the presence of witnesses upon subpoena. Each witness shall be required to take oath before an officer of the board. The State Board of Education shall provide for a stenographic report of the proceedings and furnish the officer with a copy.

(3) Upon completion of both sides of the case, but within ninety days from the date the officer was suspended, the State Board of Education may by a majority vote remove the officer. If within ninety days from the date of suspension, the State Board has not removed the officer, or has dismissed the charges, the suspended officer shall be reinstated and shall be paid his full salary for the period of such suspension.

(4) The officer shall have a right to appeal both as to law and to fact to the circuit court for trial without a jury. If said appeal is not made within thirty days after removal, then the decision of the State Board of Education shall be final. Said appeal shall be an original action in said court and shall be commenced by the filing of a petition against the State Board of Education, in which petition the facts shall be alleged upon which the officer relies for a reversal or modification of the order of removal. Upon service or waiver of summons in said appeal, the State 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 evi-

dence adduced at the hearing, 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 State 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. Either the officer or the State Board of Education may appeal from the action of the court to the Court of Appeals. If the decision of the court is against removal, the officer shall be paid his full salary from the date of suspension. Such payment shall be made from funds appropriated to the State Department of Education. (1962, c. 244, Art. I, § 2; effective June 14, 1962)

156.136 Vacancies Caused by Suspension; Appointment; Term; Payment. The State Board of Education, upon suspension of any officer or district board of education member under subsections (2) and (3) of KRS 156.132, shall name a person to fill the vacancy caused by such suspension. Persons appointed by the State Board of Education to fill vacancies under KRS 156.132 to 156.146 shall hold office only during the time an officer is suspended, not to exceed ninety days from the date of suspension. At the expiration of such period, vacancies shall be filled in the manner provided by law for the office. Persons appointed by the State Board of Education to fill vacancies caused by suspension shall be paid from funds of the district board of education. Any person employed to fill the position of a superintendent who has been removed by the State Board of Education under KRS 156.132 shall be employed by the district board of education for a period not to exceed one year if the superintendent has appealed to the courts and if the courts have not taken final action. (1962, c. 244, Art. I, § 3; effective June 14, 1962)

156.138 Duty of Attorney General. The Attorney General, upon the written recommendation of either the Governor, the Auditor of Public Accounts, the Superintendent of Public Instruction or the State Board of Education, shall institute the necessary actions to recover school funds, from any source, which he believes have been erroneously or improperly allowed or paid to any person. (1962, c. 244, Art. I, § 5; effective June 14, 1962)

156.142 Jurisdiction. The jurisdiction of all actions brought under the provisions of KRS 156.132 to 156.146 shall be vested in

the circuit court of the county in which the school district is located. (1962, c. 244, Art. I, § 6; effective June 14, 1962)

156.144 Special Judge, Selection. Upon motion, without cause, of any party to any action referred to in KRS 156.142, the judge shall vacate the bench and the parties by agreement may elect one of the attorneys of the court to preside on the trial or hear the application or hold the court for the occasion. Any special judge so selected shall have all the powers and be subject to all the responsibilities of the regular judge of the court. (1962, c. 244, Art. I, § 7; effective June 14, 1962)

156.146 Failure to Select Special Judge, Procedure. If the parties cannot agree upon an attorney as provided in KRS 156.144 or if the regular judge determines that sufficient time is not available in which to ascertain if the parties can agree upon a member of the bar to act as judge, as provided in KRS 156.144, or if he determines that it is impracticable to attempt to obtain agreement because of the large number of parties to the action to be tried, or for any reason, the clerk shall at once certify the facts to the Chief Justice of the Court of Appeals, who shall immediately designate a regular circuit judge, if one be available, and, if not, an attorney having the qualifications of a judge, to hold the court or try the action. (1962, c. 244, Art. I, § 8; effective June 14, 1962)

156.152 Superintendent Authorized to Secure Price Contract Agreements For the Purchase of School Buses by District Boards of Education. The Superintendent of Public Instruction, as executive officer of the State Board of Education, upon application and requisition to the Division of Purchasers in the Department of Finance, is hereby authorized and directed to secure price contract agreements for the purchase of school buses by all district boards of education. The Division of Purchases shall enter into price contract agreements under established purchasing procedure in keeping with KRS 42.060 to 42.070 inclusive. Said price contract agreement shall establish sources of supply, maximum prices to be paid and shall set forth the length of time for which contracts shall be valid. (1956, 1st ex. s., c. 7, Art. XVI, § 20)

156.153 School Buses to Meet Standards and Specifications of State Board of Education; "School Bus" Defined. All school buses for which bids are made or bid contracts awarded shall meet the

standards and specifications of the State Board of Education. The term "school bus", as used in this section, shall mean any motor vehicle which meets the standards and specifications for school buses as provided by law or by the standards or specifications of the State Board of Education authorized by law and used solely in transporting school children and school employes to and from school under the supervision and control and at the direction of school authorities, and shall further include school bus accessory equipment and supplies and replacement equipment considered to be reasonably adaptable for purchase from price contract agreements. (1956, 1st ex. s., c. 7, Art. XVI, § 21)

156.154 Superintendent to Make Available to District Boards of Education Information Respecting Established Price Agreements; Authority of School Boards to Take Own Bids and Purchase School Buses. The Superintendent of Public Instruction shall make available to all district boards of education full information respecting established price contract agreements, and any or all districts may procure buses from sources and at prices, terms and conditions incorporated in said price contract agreements. Any district board of education may take its own bids on school buses which meet the specifications of the State Board of Education for school buses for which price contracts have been established, provided the Superintendent of Public Instruction approves the bids and purchase contract as meeting specifications of the State Board of Education. However, no district board of education shall purchase school buses under the terms of this section unless the Superintendent of Public Instruction shall certify that the purchase price is lower than prices set forth in established price contract agreements for similar equipment. (1956, 1st ex. s., c. 7, Art. XVI, § 22)

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 accred-

iting 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 contracts, for use in the several school districts.

Free textbooks for children in correctional institutions, duties as to, KRS 157.190.

School buses, regulations concerning, KRS 189.540.

Transportation of school children, KRS 158.110, 158.115.

Goins, et al. v. Jones, et al., 258 S. W. (2d) 723. Where a Superintendent of Public Instruction and a local board of education had carefully considered a proposed school site and Superintendent of Public Instruction had approved the site the school board's action in locating the school was not arbitrary nor lacking in reasonable discretion.

Pulliam et al. v. Williams et al., 304 Ky. 351, 200 S. W. (2d) 731. Where high school attendance was below 60, the minimum requirement for accreditment until after order for discontinuance was made, and where sudden increase was made to obtain rescission of the order discontinuing school, injunction to require discontinuing was not and could not be granted. (February 21, 1947.)

Dicken et al. v. Kentucky State Board of Education, 304 Ky. 343, 199 S. W. (2d) 977. Regulation of State Board of Education requiring 60 students as a minimum to maintain a high school is valid and does not constitute a legislative function. (February 21, 1947.)

Phelps et al. v. Witt et al., 304 Ky. 473, 201 S. W. (2d) 4. County Board of Education abused its discretion in locating a school building in that it did not have approval of Superintendent of Public Instruction, contrary to recommendation of Department of Education, not in center of population. (February 11, 1947.)

City of Middlesboro et al. v. Board of Education of Middlesboro, 302 Ky. 683, 195 S. W. (2d) 288. Boards of education must include in budget a reasonably anticipated

amount of collection of delinquent taxes for the previous year based upon experience. It may deduct amount of anticipated delinquencies in collection of taxes under current levy. (June 21, 1946.)

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 enforcebale. (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.)

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.

W. L. Gearhart et al., v. Kentucky State Board of Education et al., 355 S. W. (2d) 667 (Carter County). The court held that the State Board had statute authority to remove an entire membership but that the State Board could not validly remove member of county board one day after she took office. (March 2, 1962.)

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 interest of the public schools, 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. (1952, c. 41, § 4)

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).

156.255 Definitions for KRS 156.255 to 156.295. As used in KRS 156.255 to 156.295:

(1) "Accountant" means a certified public accountant or a public accountant registered with the State Board of Accountancy. (1962, c. 244, Art. II, § 1; effective June 14, 1962)

(2) "Board" means the board of education of a school district;

(3) "Committee" means the State Committee for School District Audits;

(4) "State board" means the State Board of Education.

156.265 State Committee for School District Audits; Authority; Expense. (1) There shall be a State Committee for School District Audits comprised of the Governor, or a person designated by him, the Attorney General and the Superintendent of Public Instruction. The Governor, or the person designated by him, shall be the chairman of the committee.

(2) The committee shall have the accounts of each board audited not less than once every two fiscal years. The committee also may, at any time, cause to be made a comprehensive and complete audit of any board. Upon the written request of the State Board, the Superintendent of Public Instruction, the Attorney General, the Auditor of Public Accounts or the Governor, the committee may cause the accounts of a board to be audited. Each audit shall cover such period of time, and shall include such auditing procedures and standards, as the committee may designate.

(3) Audits authorized under this section are in addition to any audits contemplated under KRS 11.090, KRS 156.200, or KRS Chapter 43.

(4) The actual expense of any audit authorized under this section shall be borne equally by the district board of education and by the committee from funds allocated to it. (1962, c. 244, Art. II, § 2; effective June 14, 1962)

156.275 Accountants; Selection; Reports. (1) The committee shall select, to make the audit authorized under KRS 156.265, accountants who have no personal interest in the financial affairs of the board or of any of its officers or employes.

(2) Immediately upon completion of each audit, the accountant shall prepare a report of his findings and recommendations in such form and in such detail as the committee may prescribe. The report shall be to the committee and in such number of copies as specified by the committee. The committee shall furnish one copy to the State Board of Education, one copy to the district board of education to which the report pertains, and one copy to the Superintendent of Public Instruction and one copy to the Auditor of Public Accounts. The district board of education shall keep a copy of the report on file in the office of the superintendent of schools of the district and the report shall be open to inspection by any interested person subject to reasonable rules as to time and place of inspection. (1962, c. 244, Art. II, § 3; effective June 14, 1962)

156.285 Access to Records; Witnesses; Subpoena. (1) The accountant shall have access to and may examine all books, accounts, reports, vouchers, correspondence files, records, money and property of any board. Every officer or employe of any such board having such records or property in his possession or under his control shall permit access to and examination of them upon the request of the accountant.

(2) The committee may require information on oath from any person touching any matters relative to any account that the accountant is required to audit. The committee may administer the oath, or have it done by any officer authorized to administer an oath.

(3) The committee may issue process and compel the attendance of witnesses before it, and administer oaths and compel witnesses to testify in any of the investigations the accountant is authorized to make. (1962, c. 244, Art. II, § 4; effective June 14, 1962)

156.295 Offenses; Penalties. Any officer or employe of a board or any other person who prevents, attempts to prevent, or obstructs an examination by the accountant made under KRS 156.265 and 156.275 is guilty of a high misdemeanor and shall, upon indictment and conviction in the circuit court of competent jurisdiction, be fined five hundred dollars.

(2) Any person who fails or refuses to permit the examination provided for in KRS 156.285 or who interferes with such examination shall be fined not less than one hundred dollars or imprisoned

in the county jail for not less than one month nor more than twelve months, or both. Each refusal shall constitute a separate offense.

(3) Any person who has custody of any books, accounts, reports, vouchers, correspondence, files, records, money and property that the accountant is authorized to examine under KRS 156.265 and 156.285 who fails or refuses when called upon by the committee for that purpose to permit the accountant to inspect any of such materials shall, upon conviction in the circuit court of competent jurisdiction, be fined not more than five hundred dollars and be subject to removal as provided by law.

(4) Any person who refuses to be sworn when required by the committee to be sworn for the purpose mentioned in subsection (2) of KRS 156.285 shall be fined not more than five hundred dollars.

(5) Any witness called by the committee under subsection (3) of KRS 156.285 who fails, without legal excuse, to attend or testify shall be fined not more than five hundred dollars. (1962, c. 244, Art. II, § 5; effective June 14, 1962)

156.400 Classification of School Subjects; Adoption Groups and Schedule of Periods of Adoption; Extensions of Existing Textbook Contract; Adoption Periods. (1) On or before July 1, 1954, the Superintendent of Public Instruction shall classify the elementary and secondary school subjects included in the state courses of study as prescribed by the State Board of Education under seven subject fields as follows: (a) Language Arts; (b) Social Studies; (c) Science and Health; (d) Mathematics; (e) Fine and Practical Arts; (f) Foreign Languages; (g) Vocational and Business Education. The Superintendent of Public Instruction shall arrange the seven subject fields into four adoption groups. The four adoption groups shall be arranged as nearly equal in number and purchase cost as possible.

(2) The schedule for the periods of adoption shall be as follows:

Adoptions in Group I shall be made in 1955 and the period of adoption shall be for four years;

Adoptions in Group II shall be made in 1955 and the period of adoption shall be for three years;

Adoptions in Group III shall be made in 1955 and the period of adoption shall be for two years;

Adoptions in Group IV shall be made in 1955 and the period of adoption shall be for one year;

Provided, however, in 1955 not more than one-half of the textbooks in use in any subject may be changed with the exception of the subjects in Group I in which all textbooks in use shall be adopted; or

Provided, further, that the State Textbook Commission, by mutual agreement with the textbook publishers now under contract with the State of Kentucky, may extend the present contracts as follows:

Contracts for all or part of the textbooks in use for the subjects in Group IV may be extended for a period of one year.

Contracts for all or part of the textbooks in use for the subjects in Group III may be extended for a period of two years.

Contracts for all or part of the textbooks in use for the subjects in Group II may be extended for a period of three years.

Upon the expiration of the periods of adoption or contract extensions as set in the aforesaid schedule for the periods of adoption and contract extensions in each of the above fields, adoptions shall be made for a period of four years for each adoption group in which textbooks for all the subjects shall be adopted. (1952, c. 184, § 1)

156.405 State Textbook Commission; Appointment and Vacancies; Qualifications; Reimbursement for Expenses; Meetings and Organization. (1) The State Textbook Commission shall consist of the Superintendent of Public Instruction and eight appointive members. The eight members shall be appointed by the State Board of Education upon the recommendation of the Superintendent of Public Instruction for terms of four years, excepting the 1954 appointments. Eight members shall be appointed on or before July 1, 1954 for the following terms: two members for terms of one year; two members for terms of two years; two members for terms of three years; and two members for terms of four years. Beginning with 1955 and each year thereafter, upon the expiration of the terms of the appointees, two members shall be appointed for terms of four years. All vacancies that occur on the State Textbook Commission shall be filled in like manner for the remainder of the unexpired terms. Nothing contained herein shall be construed to affect the tenure of office of persons serving on the State Textbook Commission on June 19, 1952.

(2) The appointive members of the State Textbook Commission shall have had not less than five years teaching or supervising experience in the public schools of Kentucky and must have had at the time of their appointment at least four years of college training in a recognized institution of higher education. Five members of the commission shall be classroom teachers actively employed in the public schools of Kentucky as teachers in subject field or fields for which the commission will select books. Two members shall be principals, supervisors, or superintendents of public schools or public school systems. One member shall be a member of the faculty of a public institution of higher education engaged in teacher education. In selecting the members of the State Textbook Commission the Superintendent of Public Instruction shall give due regard to representation from rural and urban areas and both elementary and secondary levels when both educational levels are included in the subject field or fields for which adoptions are to be made.

(3) Members of the State Textbook Commission shall serve without remuneration except reimbursement for their actual expenses while attending commission meetings.

(4) The meetings of the State Textbook Commission shall be open to the public.

(5) Not later than July 15 each year the Superintendent of Public Instruction shall call the State Textbook Commission into session at the State Capitol. The members of the State Textbook Commission shall elect one of its members as chairman and shall adopt rules and regulations for the procedure of the commission. The Superintendent of Public Instruction shall be the Secretary of the commission. (1952, c. 184, § 2)

156.410 Duties of Superintendent of Public Instruction in Selection and Adoption of Textbooks; Regulations Pertaining to Textbook Samples and Agents. (1) The Superintendent of Public Instruction shall prepare minimum manufacturing standards and specifications, construct score cards, and formulate other criteria for use in the selection and adoption of textbooks in Kentucky.

(2) It shall be the duty of the Superintendent of Public Instruction to prepare all necessary forms for use in the selection and adoption of textbooks, such as advertising for textbook bids, forms for bids, bonds and contracts, and other forms.

(3) The State Board of Education upon the recommendation

of the Superintendent of Public Instruction shall have authority to prescribe (a) rules and regulations pertaining to all textbook samples for use on the state and local levels; and (b) shall have authority to prescribe rules and regulations relating to the agents and representatives of textbooks as to the number participating and the methods and procedures for use in textbook adoptions on the state and local levels.

(4) The Superintendent of Public Instruction, on or before July 20 prior to any adoption year, shall properly advertise the subjects for which textbook adoptions will be made and notify the different publishers of the same. The publishers, on or before August 20, prior to any adoption year shall file with the Superintendent of Public Instruction textbook samples, filing fees, textbook bids and bonds, and other specified information relative to the books that they desire to offer for adoption. (1952, c. 184, § 3)

156.415 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 approved and listed by the State Textbook Commission or purchased by any board of education, the person, firm or corporation offering the books for adoption and use shall file with the Superintendent of Public Instruction:

(1) Copies of all textbooks that the person, firm or corporation 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) A statement that all the books offered for sale, adoption, use and exchange do comply with the standards and specifications for textbooks designated by the Superintendent of Public Instruction as regards to paper, binding, printing, illustrations, subject matter, and other items included in the standards and specifications;

(3) 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;

(4) 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;

(5) 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 Superintendent of Public Instruction. (1952, c. 184, § 4)

156.420 Conditions of Bond of Person Offering Textbooks. The bond required by the person, firm or corporation offering the books for adoption shall be so conditioned that:

(1) The person, firm or corporation will furnish any of the books listed in the statement filed for the period of adoption 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, firm or corporation 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, firm or corporation prepared an abridged or special edition of any book that has been listed 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 books;

(5) The person, firm, or corporation will not enter into any agreement, understanding or combination to control the price of textbooks or to restrict competition in their sale in Kentucky. (1952, c. 184, § 5)

156.425 Form of Statement and Bond; Duration; Supplemental Statement and Bond. The form of the sworn statement and bond re-

quired shall be prescribed by the Attorney-General. The bond shall be in force for the adoption period. The person, firm, or corporation 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 supplemental 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 adoption, 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. (1952, c. 184, § 6)

156.430 Violation of Bond; Suit on. The superintendent of schools of each school district shall notify the Superintendent of Public Instruction of any violation of any of the conditions in any bond so filed. 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. (1952, c. 184, § 7)

156.435 Adoption of Selection Lists; Rejection of Books Containing Subversive Matter; Execution of Contracts for Selected Books; Selection of Books for Districts not Making Adoptions; Publication of List of Adopted Books. (1) The State Textbook Commission shall, not later than October 1 prior to any adoption year, select, approve, and publish a list of ten books in each subject and grade, taking into account the needs of the various types of school organizations. Not more than two books for any subject and grade so listed shall be from the same person, firm, or corporation. If less than ten books in any subject and grade are offered, 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, firm, or corporation.

The list shall be certified and presented to the Superintendent of Public Instruction on or before October 10 following the selection.

(2) The State Textbook Commission shall have the authority to reject any book which contains subversive material or information that is offered for listing or adoption. If the commission finds on the multiple list any book which contains subversive material or information, provided the publisher of such a book has been given written notice by the secretary of the commission not less than

thirty (30) days prior to the meeting, the textbook commission shall have authority to remove the book from the state multiple list. The State Textbook Commission shall have the authority to add books to the state list when the number of books on the list is less than ten per subject and grade or when the list does not contain books for subjects added to the state courses of study.

(3) The Superintendent of Public Instruction shall make and execute contracts for the selected books with the publishers within fifteen days of the approval of the books selected by the commission. Except for the adoptions in 1955 described heretofore in KRS 156.400, all contracts shall run for four years.

(4) The State Textbook Commission, during the interval from April 15 to April 25 inclusive, shall designate one book on the state multiple list for each subject and grade for use in the school district or districts that decline or fail to make textbook adoptions on or before April 1.

(5) The Superintendent of Public Instruction shall prepare a list of the adopted books and publish same and send a copy to the superintendents of each county and independent school district in Kentucky on or before October 15 of each adoption year. (1952, c. 184, § 8)

156.440 Publishers to Furnish Textbook Samples to Local Boards of Education; Adoption of Basal Texts by Local Boards; Use of Books on State Multiple List in District not Making Textbook Adoptions; Certification of Adopted Book List. (1) Textbook publishers, upon the request of the superintendents of the county and independent school districts, shall furnish to the local boards of education the requested sample copies of their books that were selected and placed on the state multiple list of textbooks by the textbook commission. The textbook publishers shall ship and bill these copies to the local boards of education at the lowest wholesale price with shipping charges prepaid. After the school districts have made their textbook adoptions and certified them to the Superintendent of Public Instruction, all sample copies of books shall be returned to the publishers from whom obtained by May 1, shipping charges to be paid by the publishers. On the other hand, the local boards of education may retain the books but shall pay the publishers the lowest wholesale price for them.

(2) The board of education of each county and independent

school district shall, upon the recommendation of its superintendent and not later than April 1 of any adoption year, select from the state multiple list one book for each subject and grade to be used as a basal text, in its school system for a period of four years.

(3) County and/or independent school district or districts, however, may decline to make textbook adoptions. Such a school district or districts that decline or fail to make textbook adoptions on or before April 1 shall use the books on the state multiple list designated by the State Textbook Commission for each subject and grade for the adoption period.

(4) After the local board of education has adopted the basal textbooks for use of the district and not later than April 15, the superintendent of schools shall send to the Superintendent of Public Instruction a complete list of books adopted properly certified by the chairman and secretary of the board of education. (1952, c. 184, § 9)

156.445 Only Approved Books to be Used as Basal Texts; When Changes Effective. No textbooks shall be used in any public school in Kentucky as a basal textbook unless it has been approved and listed on the state multiple list of textbooks by the State Textbook Commission. Any changes of textbooks made by the State Textbook Commission shall not become effective until grades and classes of the respective county and independent school districts 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. (1952, c. 184, § 10)

156.450 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 these provisions 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 twenty per

cent in excess of the listed wholesale price. Where old books, displaced by 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 twenty per cent 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 terminated, 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. (1952, c. 184, § 11)

156.455 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. (1952, c. 184, § 12)

156.460 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. (1952, c. 184, § 13)

156.465 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. (1952, c. 184, § 14)

156.470 Disposition of Sample Books. Sample books submitted to 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. (1952, c. 184, § 15)

156.472 Textbook Adoptions and Purchases for Model and Practice Schools. (1) This section accords the same rights and privileges to the model and practice schools of the Morehead State College, the Eastern Kentucky State College, the Western Kentucky State College, the Murray State College, the Kentucky State College, and the University of Kentucky that are granted to the county and independent school districts as the textbook adoptions and purchases. The board of regents of the five State Colleges and the board of trustees of the University of Kentucky, upon the recommendations of their presidents, may make textbook adoptions from the state multiple list of textbooks, as approved and listed by the State Textbook Commission. All regulations of the State Board of Education and the statutory laws, which are applicable to textbook adoptions by the county and independent school districts, shall apply to textbook adoptions for the model and practice schools.

(2) The Superintendent of Public Instruction, subject to the approval of the State Board of Education, shall purchase from the publishers whose books have been adopted for use in the model and practice schools and distribute them without cost to the pupils enrolled in grades one through eight. All regulations of the State Board of Education and statutory laws, which are applicable to the purchase and distribution of free textbooks for and to the pupils attending the free public schools in the county and independent school districts in grades one through eight, shall apply to the purchase and distribution of free textbooks for and to the pupils attending the model and practice schools in grades one through eight. (1960, c. 99, § 1; effective June 16, 1960)

156.474 Multiple Textbook Adoption. (1) The State Board of Education, upon the recommendation of the Superintendent of Public Instruction, shall have the authority to prescribe the conditions whereby a school district may make multiple textbook adoptions for the different school subjects by grades. The school district shall make application to the Superintendent of Public Instruction for permission to make multiple textbook adoptions. The Superintendent of Public Instruction shall make or have made an adequate study to evaluate the district's conditions. If in his judgment the prevailing conditions within the school district warrant multiple

textbook adoptions, the State Board of Education, upon the recommendation of the Superintendent of Public Instruction, may grant the school district permission to make such textbook adoptions from the state multiple list of textbooks as approved and listed by the State Textbook Commission.

(2) The State Board of Education, upon the recommendation of the Superintendent of Public Instruction, shall have the authority to prescribe the rules and regulations to govern the purchase of the multiple-adopted textbooks for the school district. The Superintendent of Public Instruction, subject to the approval of the State Board of Education, may purchase the textbooks from the publishers whose books have been adopted by the school district for grades one through eight and distribute them without cost to the pupils attending the free public schools in the school district. (1960, c. 99, § 2; effective June 16, 1960)

156.476 Textbooks for Children with Impaired Vision. The State Board of Education, upon the recommendation of the Superintendent of Public Instruction, may select and approve a list of suitable textbooks and other materials printed in clear type of 18 to 24 points in the different subject areas for children with impaired vision who are attending the free public schools of the Commonwealth of Kentucky in grades one through twelve. The listing of such textbooks and materials shall not be subject to the official textbook bids, filing fees, textbook sampling, and the stipulated list prices, lowest wholesale prices, exchange prices, and the standards and specifications required for the textbooks approved and listed by the State Textbook Commission for regular use by the pupils attending the free public schools of the State of Kentucky. The State Board of Education, upon the recommendation of the Superintendent of Public Instruction, shall have the authority to prescribe rules and regulations for determining the pupils eligible for such books, the number of books to be purchased, and the general administration of the program. The Superintendent of Public Instruction, subject to the approval of the State Board of Education, may purchase these books from the approved state list of books from the publishers whose books have been listed by the State Board of Education and distribute them without cost to the pupils with impaired vision attending the free public schools of the state. All textbooks purchased under this section for the pupils with impaired vision are the property of the state. (1960, c. 99, § 3; effective June 16, 1960)

156.480 Employes of Department or School Districts not to Have Pecuniary Interest in Supplying Goods or Services for Which School Funds Are Expended; Penalties. If any employe of the Department of Education or the superintendent, assistant superintendent, business manager, purchasing agent, or employe of any county or independent school district shall have any pecuniary interest either directly or indirectly in an amount exceeding twenty-five dollars per year either at the time of or after his appointment to office, in supplying any goods, services, property or merchandise of any nature whatsoever for which school funds are expended, or if any such person receives directly or indirectly any gift, reward or promise of reward for his influence in recommending or procuring the use of any goods, services, property or merchandise, of any kind whatsoever for which school funds are expended, then his office or appointment shall without further action be vacant and he shall upon conviction be deemed guilty of a misdemeanor and fined not less than fifty dollars nor more than five hundred dollars. (1956, 1st ex. s., c. 7, Art. II, § 7)

Arnett v. DeWeese, 304 S. W. (2d) 784. The statute providing for forfeiture of school superintendent's office if he engages in stated prescribed conduct is self-executing so that if such conduct is proved, it automatically works a forfeiture in the incumbent's right to office, but the prescribed conduct as grounds of the forfeiture cannot properly be adjudged by county board of education but must be determined by a judicial tribunal which, if it finds such conduct, must render judgment accordingly.

We conclude, therefore, that the action by the individual plaintiff, Arnett, for the declaratory judgment should not have been dismissed and that the court should have permitted the issues of fact to be joined and decided the case on the merits.

156.490 Governor's Conference on Education. (1) The Governor of the Commonwealth of Kentucky be, and hereby is, authorized to cause to be held annually, in September or October, a conference on education which shall hereafter be styled the Governor's Conference on Education.

(2) The Governor is hereby authorized to appoint a committee composed of eleven citizens, headed by the Superintendent of Public Instruction, but not more than five members of which shall be professional educators; this committee to assist the Governor, at his direction, in planning and arranging for holding the conference, and to recommend to the Governor persons for appointments as delegates to the conference.

(3) The constituents of such conference shall number approximately 300 people, who shall be selected upon the basis of their ability and desire to make a contribution to the improvement of education in the Commonwealth, and without regard to religion,

race, profession or social status, except, however, that the number of professional educators appointed as delegates to said conference shall not exceed one-third of the total number of conference delegates.

(4) A full report in writing of the work, findings and recommendations of the Conference shall be made to the Governor immediately following the close of the conference. (1956, c. 64, § § 1, 2, 3, 4)

PROFESSIONAL PRACTICES COMMISSION

156.510 Professional Practices Commission; Nomination and Appointment. The Governor shall appoint a Professional Practices Commission of twelve members nominated by the teaching profession and submitted by the Superintendent of Public Instruction to the Governor. (1962, c. 123, § 1; effective June 14, 1962)

156.520 Membership. (1) Each of the following organizational units shall submit a panel of three names from each of which the Governor will select one: The Kentucky Association of School Administrators, The Kentucky Association of Secondary School Principals, The Kentucky Association of Elementary School Principals, The Kentucky Association of Educational Supervisors, The Department of Higher Education, and the Kentucky Vocational Association, the Kentucky Association of Pupil Personnel Workers and the Kentucky Association of Guidance Counselors. The Department of Classroom Teachers shall submit a panel of twelve members from which the Governor will select four.

(2) The term "Classroom teacher" for the purpose of KRS 156.510 to 156.550 shall mean any person for whom certification is required as basis of employment in the public schools of Kentucky with the exception of any personnel identified with professional groups named in KRS 156.510 to 156.550 other than the Department of Classroom Teachers.

(3) Terms will be overlapping and for a period of three years with members drawing by lot at the first meeting to determine the length of the term for each member. No member may succeed himself more than once. This commission would have the authority to select its own chairman, establish procedures for the development of standards, adopt the rules and regulations under which it operates, and secure legal and other services necessary to its function. (1962, c. 123, § 2; effective June 14, 1962)

156.530 Responsibilities. The commission is given the initial responsibility of developing, through the teaching profession itself, criteria of professional practices in areas including, but not limited to: (1) Contractural obligations, (2) transfer and assignment of teaching personnel, (3) admission to and continuance in professional service, and (4) ethical performance. (1962, c. 123, § 3; effective June 14, 1962)

156.540 Powers; Recommendations. This commission, in administering these criteria, shall have the authority to reprimand or warn members of the profession. Further, the commission shall have authority to make recommendations to the State Board of Education in cases involving suspension or revocation of certificates and to make any other recommendations to the state board and to local boards of education which would promote improvement of the teaching profession. This commission shall have the authority to subpoena witnesses and place them under oath. (1962, c. 123, § 4; effective June 14, 1962)

156.550 Financing. The commission shall be financed by the members of the teaching profession in the amount necessary to carry out the purposes of KRS 156.510 to 156.550. (1962, c. 123, § 5; effective June 14, 1962)

156.610 Teacher Education Scholarship Fund; Board, Membership, Term, Expenses. There is hereby established a Teacher Education Scholarship Fund. Upon the recommendation of the Superintendent of Public Instruction the State Board of Education shall appoint a Teacher Education Scholarship Board, to consist of five persons who are professionally engaged in teacher education. Members shall be appointed as soon as practicable after June 14, 1962 and shall serve until July 1, 1964. The Scholarship Board shall elect its own chairman and shall meet at such times and places as it deems proper. Members shall serve without pay, but may be reimbursed for actual and necessary expenses incurred in the performance of their duties. (1962, c. 244, Art. VI, § 1; effective July 1, 1962)

156.620 Application for Scholarship; Standard; Examination. The Teacher Education Scholarship Board shall receive and consider applications for scholarships from public school teachers who are teaching science, mathematics or a foreign lauguage, or who are

school librarians, and who do not have a minor in the subject they are teaching. A minor shall consist of eighteen semester hours of work planned by the college and approved by the State Department of Education, unless otherwise specified by regulation of the State Board of Education. Each applicant shall furnish a statement from the superintendent of the district in which he is teaching that the superintendent plans to assign the applicant to teach the same subject the next school year. The Scholarship Board shall make a careful and full investigation of the ability, character and qualifications of each applicant. It may personally examine each applicant and shall require each applicant to take a written examination to be administered by the Scholarship Board. (1962, c. 244, Art. VI, § 2; effective July 1, 1962)

156.630 Conditions for Awarding Scholarships; Requirements; Priority. (1) The Teacher Scholarship Board shall award scholarships not to exceed two hundred thousand dollars for the 1962-64 biennium to applicants whom the board deems qualified. Scholarships shall be awarded solely for summer work at any accredited college or institution of the applicant's choice within the Commonwealth. Each scholarship shall consist of two hundred dollars, payable at the end of the summer term. The scholarship shall be paid only if the applicant successfully completes at least six semester hours of academic courses in the subject for which the scholarship was granted. Each person to whom a scholarship is granted shall take at least six semester hours of courses approved by the college in the subject for which the scholarship was granted and may take three additional semester hours in that subject or another subject which he is teaching and in which he does not have a minor.

(2) In awarding scholarships for the second year, the board shall give priority to persons who were not awarded a scholarship the first year, provided, however, that an applicant may be awarded a scholarship the second year if he successfully completed six semester hours the first year and is otherwise qualified under the terms of KRS 156.610 to 156.650. (1962, c. 244, Art. VI, § 3; effective July 1, 1962)

156.640 Conditions of Eligibility. (1) To be eligible for a scholarship, an applicant shall contract in writing with the State Board of Education that he will accept employment during the next

school year with the district board of education by which he is employed at the time of application. If the recipient of a scholarship fails to fulfill his obligations under the contract, the entire amount of scholarship benefits received shall become due and payable.

(2) Upon recommendation of the State Board of Education, the Attorney General shall institute proceedings for the purpose of recovering any amount due the Commonwealth. (1962, c. 244, Art. VI, § 4; effective July 1, 1962)

156.650 When Effective. KRS 156.610 to 156.650 shall become effective at any time to the extent that funds become available from any unexpended portions of the Foundation Program Fund. (1962, c. 244, Art. VI, § 5; effective July 1, 1962)

156.990 Penalties. (1) Any witness who fails, without legal excuse, to attend or to testify, when required by the Superintendent of Public Instruction under these provisions, shall be fined not more than twenty-five dollars for each offense.

(2) Any person who violates any of the provisions of KRS 156.400 to 156.470 shall be fined not more than five hundred dollars or imprisoned not more than three months, or both. (1952, c. 184, § 16)

Note: By 1952, c. 184, § 17, KRS 156.990 was repealed, together with KRS 156.260 to 156.380. The penalty provisions of this section relate only to KRS 156.400 to 156.470 and do not relate to the sections repealed by 1952, c. 184, § 17.

CHAPTER IV

STATE SUPPORT OF EDUCATION

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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 per cent 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 per cent 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 per cent per annum, payable on 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.

Hodgkin, Superintendent of Public Instruction, et al. v. Board for Louisville & Jefferson County Children's Home, 242 S. W. (2d) 1008. Section 186 of the Constitution requires school funds to be distributed to each school district.

Common school is school taught in district laid out by authority of school law, under control of trustees elected under these laws. A school operated in conjunction with the Louisville and Jefferson County Children's Home cannot be a common school.

Law authorizing distribution of funds to the Louisville and Jefferson County Children's Home is unconstitutional and is not within the scope of the intention of Sections 183 to 186 of the Constitution. (October 19, 1951.)

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 school fund to purchase "Collins' History of Kentucky" was unconstitutional.

157.014 Commission on Public Education. (1) In order to provide for the continuous study and evaluation of the Commonwealth's system of public education, there is hereby created a commission to be known as the Commission on Public Education. The commission's staff constitutes an agency independent of state administrative departments.

(2) The commission shall consist of nine members known for their interest in and knowledge of the state's education system, said members to be appointed by the Governor. Not more than four of these members shall be educators. Three members shall be appointed for a term of two years; three for a term of three years; and three for a term of four years. These appointments shall be effective July 1, 1960. At the expiration of these terms appointments shall be for terms of four years. Appointments shall be made by the Governor to fill existing vacancies.

(3) The commission shall study the problems and evaluate programs of public education within the Commonwealth. Such studies and evaluations shall include but not be limited to present policies concerning public school transportation, free textbooks programs, school personnel, public school physical plants. The commission shall submit an annual report to the Governor and such special reports on its findings as the Governor may require.

(4) The chairman and vice-chairman of the commission shall be elected at the first meeting and each year thereafter. The commission may appoint an executive committee empowered to act for

the commission in all matters. Meetings will be held at least four times a year, but special meetings may be called at the discretion of the chairman. Commission members will be paid twenty-five dollars per diem plus expenses for each regular or special meeting which they attend.

(5) The commission shall cause to be made such audits of the State Board of Education and of independent and county school districts as it shall deem necessary in order to properly inform itself as to whether funds are used efficiently and in accordance with law. The commission shall evaluate and publish such audits whenever it considers such evaluation and publication to be in the public interest. (1960, c. 141, § 1; effective March 25, 1960)

157.016 Executive Director and Staff. The commission shall appoint an executive director who shall serve at the pleasure of the commission. His salary shall be fixed by the commission within the limits of the funds made available to the commission. The executive director may employ, with the approval of the commission, such staff as may be necessary to conduct studies and evaluations of programs of public education as provided in KRS 157.014. (1960, c. 141, § 2; effective March 25, 1960)

157.018 Operations Until July 1, 1964. That the Commission on Public Education continue unabated its operations during the next two fiscal years. (1962, c. 186, § 1)

157.022 Legislative Research Commission to Furnish Services; Charges. The staff of the Legislative Research Commission shall provide clerical, accounting and other housekeeping services to the Commission on Public Education, and assist in the preparation and publication of the reports of that agency. Interaccount charges may be made on the basis of the actual cost of such services. (1962, c. 186, § 3)

157.024 Legislator to be Member. Notwithstanding the provisions of KRS 157.014 and 61.096, the membership of the Commission on Public Education shall at all times include one member of the General Assembly. (1962, c. 186, § 4)

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.

157.060 [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.

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 156.405 to 156.445.

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 or 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 text book issued to a colored school child shall ever be reissued to a white school child.

157.145 Rebinding of Textbooks, Duties of Superintendent Concerning. (1) The Superintendent of Public Instruction shall each year cause an inspection to be made of the conditions of all textbooks returned pursuant to the provisions of KRS 157.140, which have not been made obsolete by the adoption, by the State Textbook Commission, of other books to replace them. The inspection provided for by this section shall be for the purpose of determining the condition of the bindings of such books.

(2) When the inspection provided for by this section reveals to the Superintendent of Public Instruction that there are textbooks, the general condition of which warrants their being rebound he shall cause a report to be made to the superintendent of public printing, on forms prescribed by the Department of Education, listing in detail the textbooks in need of rebinding.

(3) Upon receipt of the report provided for in subsection (2) the superintendent of public printing shall, pursuant to Section 247 of the Constitution and Chapter 57 of the Kentucky Revised Statutes, proceed to contract to have such books rebound. (1956, c. 178, § § 1, 2, 3; effective May 18, 1956)

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, § 1 to 4)

157.200 Definitions for KRS 157.200 to 157.305. (1) "Exceptional children" means children who differ or deviate from the average or normal children in physical, mental, emotional or social characteristics and abilities to the extent that they require specialized education in order to attain the maximum of their abilities and capacities.

(2) "Physically handicapped children" means children, other than those with a speech defect, of sound mind between the ages of three and twenty-one years who suffer from any physical disability making it impracticable or impossible for them to benefit from or participate in the normal classroom program of the public schools

in the school district in which they reside and whose intellectual development is such that they are capable of being educated through a modified educational program.

(3) "Speech defective children" means children between the ages of six and twenty-one whose speech has been diagnosd by a speech correctionist as deviating or differing from average or normal speech to the extent of hindering adequate communication and requiring specialized instruction for improvement or correction of the handicap.

(4) "Educable mentally handicapped children" means children between the ages of six and twenty-one years who because of retarded intellectual development, as determined by recognized standardized tests, are incapable of being educated profitably and efficiently through ordinary classroom instruction but whose intellectual ability would indicate a degree of scholastic attainment with the benefit of special educational methods, materials, and facilities.

(5) "Trainable mentally handicapped children" are mentally handicapped children between the ages of six and twenty-one years who, because of retarded intellectual development, are incapable of being educated properly and efficiently through ordinary classroom instruction or special education facilities for educable mentally handicapped children, but who may be expected to benefit from training in a group setting designed to further their social adjustment and economic usefulness in their homes or in a sheltered environment.

(6) "Special educational facilities" means special schools, special classes, and special instruction. All special education facilities shall be under the supervision of the Superintendent of Public Instruction. (1956, c. 162, § 1; 1962, c. 169, § 1; effective June 14, 1962)

157.220 Administrative Functions of State Department of Education in Special Program; Contributions; Approval of Local Facilities. (1) The State Department of Education is hereby designated as the agency for cooperation with the State and Federal Governments, the approved treatment centers and local schools of Kentucky in carrying out the provisions of KRS 157.200 to KRS 157.280.

The State Board of Education shall make necessary rules and regulations in keeping with the provisions of KRS 157.200 to KRS 157.280 for their proper administration, including but not

limited to establishment of classes, eligibility and admission of pupils, the curriculum, class size limitations, housing, special equipment and instructional supplies.

(2) The State Department of Education is authorized to receive contributions and donations that may be made to carry out the provisions and requirements of KRS 157.200 to KRS 157.280.

(3) Local supervision of special educational facilities for exceptional children shall be approved by the Division of Special Education according to rules and regulations approved by the State Board of Education. (1948, c. 4, § 3; 1962, c. 169, § 2; effective June 14, 1962)

157.230 Special Educational Classes for Exceptional or Handicapped Children. (1) If parents of as many as eight trainable mentally handicapped children living in a school district desire special education classes for their children, school boards of any school district shall establish and maintain such classes, subject to any limitation specified in KRS 157.200 to 157.280 and regulations of the State Board of Education.

(2) School boards of any school district may, subject to any limitations specified in KRS 157.200 to 157.280, establish and maintain special educational programs for exceptional children who are residents of their school district, and such children, residents of other school districts, as may be authorized by KRS 157.240 to 157.295.

(3) School boards of any school district may admit on preapproval and certification any physically handicapped child into special education programs at any time after the child has attained the age of three years.

(4) School boards of any school district may admit on proper approval and certification any educable or trainable mentally handicapped child into special education programs at any time after the child has attained the age of six years; provided, however, that educable and trainable mentally handicapped children shall not be enrolled in the same special class. (1956, c. 162, § 2; 1962, c. 169, § 3; effective June 14, 1962)

157.240 Determination of Status of Child as Physically or Mentally Handicapped. (1) No physically handicapped child shall be allowed special education facilities except upon a certified diag-

nosis of a physical defect by competent and appropriate professional authorities acceptable to the Superintendent of Public Instruction.

(2) The Director of Special Education, upon the approval of the Superintendent of Public Instruction, shall prescribe rules, regulations and tests for determining what children shall be classified as educable mentally handicapped or trainable mentally handicapped, and questionable cases shall be decided by the director after adequate examination and consideration of specific case histories. (1948, c. 4, § 5; 1962, c. 169, § 4)

157.250 Qualifications of Teachers; Special Training for Teachers. No person shall be employed to teach in any special education program authorized by KRS 157.230 unless he has had such special training as the State Board of Education may require. (1948, c. 4, § 6; 1962, c. 169, § 5; effective June 14, 1962)

157.260 Reports by Director of Pupil Personnel. The Director of Pupil Personnel of each school district shall ascertain annually all children within his district who are handicapped and shall report the same to the Department of Education on forms provided by the State Department of Education and according to regulations prescribed by the Superintendent of Public Instruction. (1948, c. 4, § 7; 1962, c. 169, § 6)

157.270 Instruction in Child's Home or in Hospital. If in any district there are physically handicapped children not able even with the help of transportation to be assembled in a school, instruction may be provided in the child's home or in hospitals or sanitoria.

Physically handicapped children so instructed may be counted under the provisions of subsection (1) of KRS 157.230, counting, however, a minimum of two visits a week with a minimum of one hour of instruction per visit, by a teacher provided by the board of education as equivalent to the attendance of one child five days in school. (1948, c. 4, § 8; 1962, c. 169, § 7; effective June 14, 1962).

157.280 Furnishing of Special Educational Program by District Other Than That of Child's Residence; Transportation; Sharing Costs. (1) If the number of children in one classification of exceptionality in a district is not sufficient to justify a special education program in that district, or if a school district does not provide a special education program, the board shall provide instruction by contract with another county or independent district that maintains

an approved special education program for that type child. When a district undertakes, under operation of a tuition contract or of law, to provide in its classes for these pupils residing in another district, the district of their residence shall share the total cost of the special education program in proportion to the number of pupils or in accordance with contract agreement between the two districts.

(2) The school board of the school district in which any child resides shall pay for his transportation to the class in the other school district, cost not to exceed three hundred dollars for one school year, unless the school board of the other district provides his transportation to the class, in which case the cost of transportation will be included in the total cost of the special education facility. (1948, c. 4, § 9; 1962, c. 169, § 8; effective June 14, 1962).

157.290 Tentative Preapproval of Plans for Special Education Programs. The local superintendent of schools shall present to the Superintendent of Public Instruction an application for tentative preapproval of a plan for special education programs for exceptional children. (1948, c. 4, § 10; 1962, c. 169, § 9; effective June 14, 1962)

157.295 Additional Supervisors for Special Educational Programs. (1) The Superintendent of Public Instruction shall employ two additional supervisors for the purpose of testing and classifying the mentally retarded, and two additional supervisors to supervise programs for all other exceptional children. The Superintendent of Public Instruction shall allot fifty three units in the fiscal year 1962-63, and one hundred and eight units in the fiscal year 1963-64 for such purpose, in addition to the number of units allotted and limited by House Bill 40, Section C, page 11, line 19, to exceptional children. (Enacted as subsection (1) of 1962, c. 169, § 10)

157.305 Qualification of Private Schools for Education of Exceptional Children; Conditions. (1) In lieu of the statutory requirements concerning education of exceptional children and until such time as the local boards of education are able to provide adequate instruction and facilities for exceptional children in their respective districts, private schools that are now established and are providing instruction and facilities for exceptional children may qualify as state schools for exceptional children.

(2) To qualify as a state school for the exceptional children a private school shall:

(a) Submit to the State Board of Education with its application for such qualification the names and addresses of the governing body of the school. The State Board of Education may approve or disapprove the governing body as it exists or may appoint such additional members thereto as it deems advisable;

(b) Submit the type of instruction and program now being provided, the qualifications of the instructors employed and the facilities now available. The State Board of Education may approve or disapprove the program, personnel or facilities now existing or it may make its approval contingent on such recommended improvements as it deems advisable.

(3) Once a school has qualified as a state school for exceptional children, the State Board of Education upon the recommendation of the Superintendent of Public Instruction may allow to such school one hundred dollars annually per exceptional child in average daily attendance; provided that such school meets and continues to meet the standards promulgated by the State Board of Education for schools qualifying under this section. (1960, c. 107, § 1; effective June 16, 1960).

FOUNDATION PROGRAM

157.310 Declaration of Legislative Intent in Enacting Foundation Program Legislation. In KRS 157.310 to 157.440 and subsection (2) of KRS 157.990, it is the intention of the General Assembly to assure substantially equal public school educational opportunities, through a foundation program, for those in attendance in the public schools of the Commonwealth, but not to limit nor to prevent any school district from providing educational services and facilities beyond those assured by the foundation program; and to provide, as additional state funds are made available for the public schools, for the use of such funds for the further equalization of educational opportunities. KRS 157.310 to 157.440 and subsection (2) of KRS 157.990, shall be interpreted as a measure to provide for an efficient system of public schools throughout the Commonwealth, as prescribed by section 183 of the Constitution of Kentucky, and for the manner of distribution of the public school fund among the districts and its use for public school purposes, as prescribed by section 186 of the Constitution. (1954, c. 214, § 1; effective July 1, 1954.)

Hopson v. Board of Education of Louisville, 280 S. W. (2d) 489. Title to Chapter 214, Acts of 1954, relating to public school education, adequately expressed the general subject, gave notice that the act contained provisions concerning establishment, operation and financing of foundation program, and adequately expressed the provisions of statute permitting increase in school rates.

157.320 Definitions for KRS 157.310 to 157.440. As used in KRS 157.310 to 157.440, unless the context otherwise requires:

(1) "Average daily attendance" means the aggregate days attended by pupils in a public school, divided by the actual number of days the school is in session for the year;

(2) "Average daily membership" means the aggregate days of membership of pupils in a public school divided by the actual number of days the school is in session for the year;

(3) "Board" means the board of education of any county or independent school district;

(4) "Classroom unit" means the unit for measuring educational needs for foundation program purposes;

(5) "District" means any school district as defined by law;

(6) "Elementary school" means a school consisting of grades one through eight, or any appropriate combination of grades within this range, as determined by the plan of organization for schools authorized by the district board;

(7) "Foundation program" means the level of educational services and facilities, as defined in KRS 157.310 to 157.440, which is to be provided in each district from the required local tax effort and the public school foundation program fund;

(8) "Isolated school" means an elementary or secondary school which had fewer than one hundred pupils in average daily attendance during the previous school year and which meets such standards for isolation as shall be prescribed by the regulations of the State Board of Education, based on factors to include distance by the nearest passable road from another appropriate school center which is able to receive the pupils, and the time for transportation necessary to attend another school;

(9) "Public school foundation program fund" means the fund created by KRS 157.330 for use in financing education in public elementary and secondary schools;

(10) "Regulations of the State Board of Education" means those regulations which the State Board of Education may adopt upon the recommendation and with the advice of the Superintendent of Public Instruction. The Superintendent of Public Instruction shall recommend for adoption of the State Board of Education such rules and regulations as he deems necessary for carrying out the purposes of KRS 157.310 to 157.440;

(11) "Required local tax effort" means the amount of money required to be provided by a district from local revenue sources;

(12) "Secondary school" means a school consisting of grades seven through twelve, or any appropriate combination of grades within this range as determined by the plan of organization for schools authorized by the district board. When grades seven through nine or ten are organized separately as a junior high school, or grades ten through twelve are organized separately as a senior high school and are conducted in separate school plant facilities, each shall be considered a separate secondary school for the purposes of KRS 157.310 to 157.440;

(13) "Single salary schedule" means a schedule adopted by a local board and approved by the State Board of Education upon recommendation of the Superintendent of Public Instruction which is based on training, experience and such other factors as the State Board of Education may approve and which does not discriminate between salaries paid elementary and secondary teachers; and

(14) "Teacher" means any regular or special teacher, principal, supervisor, superintendent, assistant superintendent, librarian, director of pupil personnel, or other member of the teaching or professional staff engaged in the service of the public elementary and secondary school for whom certification is required as a condition of employment. (1954, c. 214, § 2; 1960, c. 145, § 1; effective June 16, 1960)

157.330 Foundation Program Fund. (1) There is hereby established the public school foundation program fund consisting of appropriations for distribution of districts in accordance with the provisions of KRS 157.310 to 157.440.

(2) The resources of the public school foundation program fund shall be paid into the State Treasury, and shall be drawn out or appropriated only in aid of public schools as provided by statute. (1956, c. 106, § 1)

157.350 Eligibility of Districts for Participation in Foundation Program Fund. Each district which meets the following requirements shall be eligible to share in the distribution of funds from the public school foundation program funds:

(1) Employs and compensates all teachers for not less than 185 days, provided, that the State Board of Education, upon recommenda-

tion of the Superintendent of Public Instruction, shall prescribe procedures whereby this requirement may be reduced during any year for any district which employs teachers for less than 185 days, in which case the eligibility of a district for participation in the public school foundation program shall be in proportion to the length of time teachers actually are employed;

(2) Operates all schools for a term as provided in KRS 158.070 and regulations of the State Board of Education, provided, however, that if the school term is less than 185 days for any reason approved by the State Board of Education on recommendation of the Superintendent of Public Instruction the eligibility of a district for participation in the public school foundation program fund shall be in proportion to the length of term the schools actually operate;

(3) Compensates all teachers on the basis of a single salary schedule and in conformity with the provisions of KRS 157.310 to 157.440;

(4) Makes the required local tax effort except as otherwise provided by subsection (3) of KRS 157.400;

(5) Includes no nonresident pupils in its average daily attendance, except by written agreement with the district of the pupils' legal residence. (1954, c. 214, § 5; 1956, c. 106, § 2; 1960, c. 145, § 2; effective June 16, 1960)

157.360 Allotment of Classroom Units by Superintendent of Public Instruction. (1) In determining the cost of the foundation program for each district, the Superintendent of Public Instruction shall allot to each district classroom units for elementary and secondary schools, classroom units for vocational education, classroom units for special instructional services for exceptional children, classroom units for superintendents, principals and their certificated assistants and special instructional service personnel, classroom units for supervisors of instruction, and classroom units for directors of pupil personnel; provided, however, that the number of classroom units allotted any district shall not exceed the number of teachers employed by the district.

(2) In allotting classroom units for elementary and secondary schools, one classroom unit shall be included for each twenty-seven pupils in average daily attendance; provided, however, that one classroom unit shall be included for each isolated one-teacher school and one unit shall be included for each twenty-five pupils in average

daily attendance at all other isolated schools; provided, however, that one twenty-seventh of a classroom unit shall be included for each pupil in average daily attendance at Lincoln Institute if such attendance is under provisions of a written contract between Lincoln Institute and the district of the pupils legal residence.

(3) Allotments of classroom units in accordance with subsection (1) of this section shall be made on the average daily attendance for the previous school year; provided, however, that if the average daily attendance in any district for the first two months of the current school year is greater than the average daily attendance of the district for the first two months of the previous school year, upon application of the district board, made prior to December 1, the total number of classroom units allotted the district shall be increased by the percent of increase; and provided further, that if the average daily attendance of any district shall have been reduced more than three percent during the previous school year due to such factors as epidemics, inclement weather, or disaster, upon application of the district superintendent, made before July 1 of that year, the number of classroom units allotted the district for the ensuing school year shall be increased by the difference in percent between the ratio of the average daily attendance to the average daily membership for the scholastic year just ended, and the ratio of the average daily attendance to the average daily membership for the two highest of the three preceding scholastic years.

(4) In allotting classroom units for vocational education, one classroom unit shall be alloted for each full-time teacher, and a proportionate fraction of a classroom unit shall be allotted for each less than full-time teacher of vocational classes that meet the regulations of the state plan of vocational education as approved by the State Board of Education; a proportionate fraction of a classroom unit shall be allotted for each teacher employed to teach evening, part-time, or short unit classes for less than a school day or a school year that meet the regulations of the state plan of vocational education as approved by the State Board of Education.

(5) In allotting classroom units for special instructional services for exceptional children, one classroom unit shall be included for each teacher approved to teach such children in accordance with the provisions of law and regulations of the State Board of Education.

(6)In allotting classroom units for superintendents, principals,

their certificated assistants, and special instructional service personnel, the total number of classroom units allotted in subsections (2), (4), and (5) shall be divided by eight and the quotient shall be the number of classroom units allotted to the district for superintendents, principals, their certificated assistants and such special instructional service personnel as are authorized by regulations of the State Board of Education.

(7) In allotting classroom units for supervisors of instruction, one-half of a classroom unit shall be allotted each district which is allotted twenty-five through forty-nine classroom units under subsections (2), (4), and (5); one unit shall be allotted each district which is allotted 50 to 100 classroom units, one unit shall be allotted for each one hundred classroom units, or major fraction thereof, in districts allotted more than one hundred classroom units under these subsections.

(8) In allotting classroom units for directors of pupil personnel, one classroom unit shall be allotted each district which is allotted thirty-six to one hundred and sixty-six classroom units under subsection (2) and a unit for each additional two hundred and sixty-six classroom units or fraction thereof allotted under subsection (2). For districts having fewer than thirty-six classroom units, a proportionate fraction of a classroom unit shall be allotted.

(9) In allotting classroom units under subsections (1) through (8) the Superintendent of Public Instruction, under regulations of the State Board of Education, may allot units on the basis of an area larger than a district for educational services which cannot be adequately and economically provided on a district basis. (1954, c. 214, § 6; 1960, c. 145, § 3; effective June 16, 1960)

157.370 Allotment of Transportation Units. (1) In determining the cost of the foundation program for each district, the Superintendent of Public Instruction shall determine the average cost per pupil per day of transporting pupils in districts having a similar density of transported pupils per square mile of area served by not less than nine different density groups.

(2) The annual cost of transportation shall include all current costs for each district plus annual depreciation of pupil transportation vehicles calculated in accordance with the regulations of the State Board of Education for such districts that operate district-owned vehicles.

(3) The aggregate and average daily attendance of transported pupils shall include all public school pupils transported at public expense who live one mile or more from school, provided that handicapped children may be included who live less than this distance from school. The aggregate and average daily attendance referred to in this subsection shall be the aggregate and average daily attendance of transported pupils the prior year adjusted for current year increases in accordance with State Board of Education regulations.

(4) The square miles of area served by transportation shall be determined by subtracting from the total area in square miles of the district the area not served by transportation, determined in accordance with the regulations of the State Board of Education provided that if one district authorizes another district to provide transportation for a part of its area, such area served shall be deducted from the area served by that district and added to the area served by the district providing the transportation.

(5) The density of transported pupils per square mile of area served for each district shall be determined by dividing the average daily attendance of transported pupils by the number of square miles of area served by transportation.

(6) The Superintendent of Public Instruction shall determine the average cost per pupil per day of transporting pupils in districts having a similar density by constructing a smoothed graph of cost for all density groups as provided in subsection (1). This graph shall be used to construct a scale showing the average costs of transportation for districts having a similar density of transported pupils. Such costs shall be determined separately for county school districts and independent school districts, provided that no independent school district will receive an average cost per pupil per day in excess of the minimum received by any county district or districts. These costs shall be the cost per pupil per day of transported pupils included in the foundation program nad such costs shall be recalculated each biennium.

(7) The scale of transportation costs included in the foundation program for county and independent districts is determined in accordance with the provisions of KRS 157.310 to 157.440 for the biennium beginning July 1, 1960. (1954, c. 214, § 7; 1956, c. 107, § 8; 1960, c. 145, § 4; effective June 16, 1960)

157.380 Determination of Local Tax Effort. (1) On or before July 1 of each year the Department of Revenue shall determine the

aggregate assessed value of all property subject to assessment for school tax purposes, and shall determine the percentage the equalized value of property in each district is of the total equalized value of all property in the Commonwealth subject to taxation for school purposes and shall certify such information to the Superintendent of Public Instruction for use in determining the required local tax effort for each district. In school districts where the required local tax effort includes assessments on which tax payments may be legally deferred, the local district board of education may request the State Board of Education to adjust the assessment of such property in order to reduce the required local tax effort during any year in which the estimated taxes to be received are at least fifteen percent less than the taxes that would be received if tax payments were on a current basis. Upon receipt of such request, the State Board of Education shall ask the Revenue Department to verify the fact that the request is reasonable and that on the basis of the best information available, the taxes to be received will be at least fifteen percent less than the taxes that would be received if payments were on a current basis. If the request is approved by the State Board of Education and the Revenue Department, the following procedure shall be followed by the Revenue Department in adjusting assessments on such property for purposes of KRS 157.380:

(a) Determine the revenue the district can reasonably expect to receive from tax payments on property on which deferred tax payments are permitted by law.

(b) Calculate the adjusted assessed valuation of property to be used for purposes of KRS 153.380 by dividing the revenue the district expects to receive by the local tax rate in dollars and multiply the quotient by 100.

(c) Differences between estimated and actual receipts in any fiscal year shall be carried forward to the next fiscal year and reflected in the receipts for that year in calculating adjusted assessments for property subject to deferred tax payments.

(d) An accurate record of adjusted assessments shall be kept from year to year in order that the local school district may be put on an actual assessment basis as soon as possible for purposes of KRS 157.380.

(2) If such assessment has not become final by July 1 of any year, the Department of Revenue shall, on the basis of other information as may be available, make an estimate of the assess-

ment of all property subject to local school tax in each school district and the estimate shall be used in lieu of the aggregate assessed value.

(3) Except as provided in subsection (1) of this section, in determining the required local tax effort for districts which participate in the public school foundation program fund, the Superintendent of Public Instruction shall divide the aggregate assessed value of all property in the Commonwealth subject to taxation for school purposes by one hundred and multiply the quotient thereof by one dollar and ten cents. The product thereby obtained shall be multiplied by each district's percentage of the total equalized value of all property in the Commonwealth subject to taxation for school purposes.

(4) Any district's levy shall be at such rate as is necessary to provide the required local tax effort. (1954, c. 214, § 8; 1956, c. 106, § 3; 1958, c. 13; 1960, c. 145, § 5; 1962, c. 222; effective June 14, 1962)

157.390 Classification of Teachers; Procedure for Determination of Amounts for Teacher's Salaries and Other Expenses. (1) (a) The Superintendent of Public Instruction, under regulations of the State Board of Education, shall classify teachers in rank as follows:

Rank I. Those holding regular certificates and who have a master's degree and who have earned thirty semester hours of additional approved graduate work, and those teachers who, as of September 1, 1962, were included in Rank I, having earned twenty-four semester hours of additional approved graduate work.

Rank II. Those holding regular certificates and who have a master's degree or its equivalent.

Rank III. Those holding regular certificates and who have an approved four-year college degree or the equivalent.

Rank IV. Those holding certificates and who have ninety-six to one hundred and twenty-eight semester hours of approved college training or the equivalent; provided, however, that persons holding emergency certificates shall not be classified higher than this rank.

Rank V. Those holding certificates and who have sixty-four to ninety-five semester hours of approved college training or the equivalent.

Rank VI. Those holding certificates and who have thirty-two

to sixty-three semester hours of approved college training or the equivalent; provided, however, that effective July 1, 1965, no teachers in Rank VI shall be included in calculating the amount to be included in the foundation program of a district for teachers' salaries, unless the teacher holds a life certificate.

Rank VII. Those holding certificates and who have fewer than thirty-two semester hours of approved college training or the equivalent; provided, however, that effective July 1, 1964, no teacher in Rank VII shall be included in calculating the amount to be included in the foundation program of a district for teachers' salaries.

(b) In determining ranks, the Superintendent of Public Instruction, under regulations of the State Board of Education, shall classify teachers who hold valid certificates in the respective ranks according to approved college semester hours of credit. The Superintendent of Public Instruction, in defining preparation for certain types of vocational teachers as equivalent to college training, shall give consideration to apprenticeship training and industrial experience.

(2) Beginning with the school year 1961-62, the amount to be included in the foundation program of a district for teachers' salaries shall be determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the following allotment schedule for each rank:

Rank I	$4600
Rank II	4300
Rank III	4000
Rank IV	2900
Rank V	2600
Rank VI	2200
Rank VII	1900

Provided, the amount to be included for vocational units, supervisory units, and units for administrators, directors of pupil personnel and special instructional services shall be increased proportionately if the personnel for such units are employed for longer than the regular school term and such employment is approved by the Superintendent of Public Instruction under regulations of the State Board of Education. Where the actual number of teachers employed by the district varies from the number allowed under the

provisions of KRS 157.310 to 157.440, the number to be included in each rank shall be in the same ratio that the number of teachers actually in each rank is to the total number of teachers employed.

(3) The amount to be included in the foundation program for other current expenses shall be determined by multiplying the number of classroom units by nine hundred dollars.

(4) The amount to be included in the foundation program for capital outlay shall be determined by multiplying the number of classroom units by six hundred dollars.

(5) The amount to be included in the foundation program of each district for transportation shall be determined by multiplying the aggregate attendance of transported children by the allowable cost per pupil per day for that district determined in accordance with the provisions of KRS 157.370.

(6) The total cost of the foundation program for each district shall be the sum of the allotments in subsections (2), (3), (4), and (5) of this section. (1962, c. 244, Art. V; effective July 1, 1962)

157.400 Procedure for Determining Amount Distributable to Each District from Foundation Program Fund. (1) The amount of money distributable to each district from the public school foundation program fund shall be determined by subtracting the required local tax effort from the total foundation program allotment for the district as determined in KRS 157.390.

(2) (a) If it shall be determined in subsection (1) that the amount of money distributable to a school district for the school year 1960-61 shall be less than one hundred and twenty dollars per pupil in average daily attendance and, beginning in the 1961-62 school year, that the amount of money distributable to a school district shall be less than one hudred and twenty-five dollars per pupil in average daily attendance, then the apportionment for that district shall be less than one hundred and twenty-five dollars per pupil in average daily attendance and, beginning in the 1961-62 school year, then the apportionment for that district shall be increased to one hundred and twenty-five dollars per pupil in average daily attendance; provided, however, if a district fails to provide the total potential classroom units under KRS 157.360 subsections (2), (6), (7) and (8) and at least as many classroom units under KRS 157.360 subsections (4) and (5) as were provided in 1955-56, any increase in the apportionment called for in this subsection shall

be reduced to the extent that the district fails to provide the classroom units.

(b) The average daily attendance referred to in this subsection shall be the prior year average daily attendance of the district adjusted proportionately for any increase in classroom units allotted the district under provisions of KRS 157.360 subsection (2).

(c) The classroom units requirement under this subsection relating to classroom units under KRS 157.360 subsections (4) and (5) may be waived for any district by the Superintendent of Public Instruction when it is shown that the need for these educational services no longer exists.

(3) In the event a district whose appropriation is increased under subsection (2) of this section is allotted classroom units under KRS 157.360 subsections (4) and (5) in excess of the number of such units allotted that district in 1955-56, then the allotment to that district determined in subsection (2) of this section shall be increased by the foundation program cost of these units determined in accordance with KRS 157.390 subsections (2), (3) and (4).

(4) If the allotment to a school district as determined in subsections (2) and (3) is an amount less than thirty-five dollars per pupil in average daily attendance plus the allotment for that school district in 1959-60, then the allotment shall be increased by an amount necessary to provide a final amount equal to the 1959-60 allotment plus thirty-five dollars per pupil in average daily attendance; provided, however, if a district fails to provide the total potential classroom units under KRS 157.360 subsections (2), (6), (7) and (8) and at least as many classroom units under KRS 157.360 subsections (4) and (5) as were provided in 1955-56, any increase in the apportionment called for in this subsection shall be reduced to the extent that the district fails to provide the classroom units.

(5) If a district fails for any reason to make the required local tax effort, as provided in KRS 157.380, the amount of the apportionment of the public school foundation program fund to be paid to such district under subsections (1), (2), (3) and (4) of this section shall be reduced by the percentage of loss from the required local tax effort.

(6) So much of the public school foundation program fund which would not be distributed under subsections (1) through (5) inclusive of this section, due to the failure of one or more participating districts to meet the full requirements, shall be held in the

account for distribution the following year among districts which meet the requirements for participation. (1954, c. 214, § 10; 1956, c. 106, § 5; 1960, c. 145, § 7; effective June 16, 1960)

157.410 Procedure For Payments of Funds to Districts. For each school year the Department of Finance, on the certification of the Superintendent of Public Instruction, shall draw warrants as specified hereinafter on the State Treasurer for the amount of the public school foundation program fund due each district. Checks shall be issued by the State Treasurer and transmitted to the Department of Education 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 Superintendent of Public Instruction shall determine on or before July 15 of each year the tentative allotment of school funds to which each district is entitled under the provisions of KRS 157.310 to 157.440. Beginning August 1 of each year and on the first of each month thereafter for seven successive months one-twelfth of each district's share of the public school foundation program fund shall be distributed. On or before March 1 of each year the Superintendent of Public Instruction shall determine the exact amount of the public school foundation program fund to which each district is entitled and the remainder of the amount due each district for the year shall be distributed in four equal installments beginning March 15 and for three successive months thereafter. (1954, c. 214, § 11)

157.420 Restrictions Governing Expenditure of Funds from Foundation Program Fund. Public school foundation program funds made available to the credit of each district during any year, together with the funds required from local tax effort, shall be received, held and expended by the district board, subject to the provisions of law and regulations of the State Board of Education. The following restrictions shall govern the expenditure of funds from the public school foundation program fund:

(1) The teachers' salaries allotment for each district from the public school foundation program fund and from local sources shall be used only for teachers holding properly authorized certificates. The average salary paid any rank of teachers shall be at least equivalent to the public school foundation program fund allotment for that rank as established in subsection (2) of KRS 157.390, and

no teacher shall be paid less than ninety percent of the public school foundation program fund allotment for that rank;

(2) The capital outlay allotment for each district from the public school foundation program fund and from local sources shall be kept in a separate fund and may be used by the district only for capital outlay projects approved by the Superintendent of Public Instruction in accordance with requirements of law, and based on a survey made in accordance with rules and regulations prescribed by the State Board of Education. These funds shall be used for the following capital outlay purposes:

(a) For direct payment of construction costs;

(b) For debt service on voted and funding bonds;

(c) For payment or lease-rental agreements under which the board eventually will acquire ownership of a school plant;

(d) For the retirement of any deficit resulting from over-expenditure for capital construction, if such deficit resulted from an emergency declared by the State Board of Education under KRS 160.550;

(e) As a reserve fund for the above named purposes, to be carried forward in ensuing budgets; provided, however, if any district has a special levy for capital outlay or debt service that is equal to the capital outlay allotment or a proportionate fraction thereof, and spends the proceeds of that levy for the above named purposes, the Superintendent of Public Instruction, under regulations of the State Board of Education, may authorize the district to use all or a proportionate fraction of its capital outlay allotment for current expenses.

If a survey shows that a school district has no capital outlay needs as shown in paragraphs (a), (b), (c) and (d) above, upon approval of the Superintendent of Public Instruction, these funds may be used for school plant maintenance, repair, insurance on buildings, and replacement of equipment. (1954, c. 214, § 12; 1956, c. 106, § 6; 1960, c. 145, § 8; effective June 16, 1960)

157.430 Procedure for Percentage Reduction of Amounts Distributable to Districts in Case of Insufficient Appropriations by General Assembly. If, when the apportionments are being determined under the provisions of KRS 157.310 to 157.440, funds appropriated by the General Assembly to the public school foundation program fund plus that portion of the funds required from local tax effort are insufficient to provide the amount of money re-

quired under subsections (1), (2), and (4) of KRS 157.400, the Superintendent of Public Instruction shall make a percentage reduction in the allotments determined in these subsections for each district to the extent necessary to reduce the total of these allotments to funds available, provided that no district shall receive less than the amount that it received in its per capita apportionment in 1955-56, provided further that it meets the requirements set forth in KRS 157.350 and subsections (2), (4) and (5) of KRS 157.400. The revenue available after the provisions of KRS 157.400 subsections (1), (2) and (4) have been met shall be apportioned to meet, in so far as possible, the provisions of KRS 157.400 subsection (3). (1954, c. 214, § 13; 1956, c. 106, § § 7, 8; 1960, c. 145, § 9; effective June 16, 1960)

157.440 Authority of Districts to Exceed Levies Authorized by KRS 157.380 or 160.475. In addition to the local tax effort required by KRS 157.380, for participation in the equalization account of the public school foundation program fund, such districts or any other district may exceed this levy or the maximum levy provided by KRS 160.475 provided that, upon request of the board, the tax levying authority of the district shall adopt an ordinance or resolution submitting to the qualified voters of the district, in the manner of submitting and voting as prescribed in subsection (1) of KRS 160.477, the question as to whether a rate of more than one dollar and fifty cents or the required local tax effort, whichever rate is higher, shall be levied. If a majority of those voting on the question favor the increased rate, the tax levying authority shall, when the next tax rate for the district is fixed, levy the rate requested by the board not to exceed the rate authorized by the voters. (1954, c. 214, § 14)

Hopson v. Board of Education of Louisville, 280 S. W. (2d) 489. Board of education proposal for submission to the voters of the question of whether or not additional school tax should be levied was not required to fix a specific rate of tax, or a minimum rate, or to limit the number of years for which the additional tax might be levied.

157.990 [4421c-10] **Penalties.** (1) 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.

(2) Any person who willfully violates any of the provisions of KRS 157.310 to 157.440 shall be fined not less than one hundred dollars nor more than five hundred dollars. (Subsection (2) created, 1954, c. 214, § 15)

CHAPTER V

CONDUCT OF SCHOOLS

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

Wooley v. Spaulding 293 S.W. (2d) 563. The fundamental mandate of the Constitution and statutes is that there shall be equality and that all public schools shall be nonpartisan and non sectarian.
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.

Brown v. Board of Education, Topeka, Kansas, 75 S. Ct. 753.349 U. S. 294. This decision renders the aforesaid law null and void.

158.021 Exceptions to Requirement of Separate Schools for White and Colored Students. The provisions of KRS 158.020 shall not be construed to prohibit the giving or receiving of instruction in any course of study, above high school level, in any institution of higher education, public or private, at the undergraduate or graduate grade or on the professional level, or in any course of instruction for adults conducted or sponsored by or under the auspices of public or private corporations, groups or bodies, provided the governing authorities of the institution, corporation, group or body so elect, and provided that an equal, complete and accredited course is not available at the Kentucky State College for Negroes. (1950, c. 155)

Regional educational compact, education of Negroes under, KRS 164.540.
Separate schools for white and colored, Const. 187.

158.025 Hospital Courses in Medicine, Surgery or Nursing Not Restricted by KRS 158.020. The provisions of KRS 158.020 shall not

be construed to prohibit the giving of instruction in nursing, medicine, surgery, or other related courses of graduate grade or on the professional level, within any hospital, if the governing body of the hospital, by a majority vote of its members, so elects. (1948, c. 112)

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 December 31 following the opening of school may enter school provided that he enters within thirty calendars 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 December 31 following the opening of school 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; 1950, c. 108; 1952; c. 145, § 1; 1962, c. 74; effective June 14, 1962)

Turner et al. v. City Board of Education of City of Mayfield, 231 S. W. (2d) 27. Where houses in which certain school children lived were partly within and partly without limits of city school district, ruling that such of the children whose houses were more than half and as much as two-thirds within the city should be adjudged to reside in the city and were entitled to attend city schools without payment of any tuition was proper. (June 23, 1950.)

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.

158.035 Certificate of Immunization. Except as otherwise provided in KRS 214.036, no child shall be eligible to enroll as a student in any public or private elementary or secondary school without first presenting a certificate from a duly licensed medical or osteopathic physician stating that the child has been immunized against diphtheria, tetanus and poliomyelitis is in accordance with the provisions of KRS 214.034 and the regulations of the State Board of Health.

The governing body of private and public schools shall enforce the provisions of this section. (1962, c. 95, § 3; effective June 14, 1962)

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

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 intermission, shall not exceed nine hours. A pupil who is absent, excused or dismissed from any regularly scheduled class to attend not more than four field trips in a school term may be considered in attendance on those days, if the field trip is part of a regularly scheduled class; provided, however, that upon application of any district superintendent, the Superintendent of Public Instruction or the State Board of Education may, if sufficient cause be shown, grant authority to use an additional day or days for special field trips or exceptional events. (1962, c. 244, Art. VII, § 1; effective June 14, 1962)

158.070 [4370-7] **School Term; Exceptions.** (1) The minimum school term shall be 185 days. The Superintendent of Public Instruction, upon the approval of the State Board of Education, may extend the minimum term to ten months when the resources of the school fund or contributions by local taxation 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 aducation may extend its terms beyond the minimum term set by the Superintendent of Public Instruction.

(2) The board of education of any school district may use no more than four days of the minimum school term for holidays, three days for in-service training and professional work, and three days for attendance at state and district meetings of professional educational associations. The State Board of Education, upon recommendation of the Superintendent of Public Instruction, shall adopt regulations governing the use of school days. (1962, c. 244, Art. VII, § 2; effective June 14, 1962)

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.

Part-time schools for employed children, KRS 339.380.

Special education facilities for handicapped children, KRS 157.230 to 157.295.

Pulliam v. Williams, 304 Ky. 351, 200 S. W. (2d) 731. Mandatory injunction requiring revocation of order discontinuing a certain high school under a rule approved and adopted pursuant to KRS 156.160, requiring a minimum of 60 students for maintenance of a high school, could not be granted on the ground that the school currently had more than 60 students, where the school had never had sixty pupils in attendance until after order of discontinuance was made, and where sudden increase in attendance was from an outside area for purpose of obtaining a rescission of the order.

Dickens et al. v. Kentucky State Board of Education, 304 Ky. 343, 199 S. W. (2d) 977. Regulation of State Board of Education requiring 60 students as a minimum to maintain a high school is valid and does not constitute a legislative function. (February 21, 1947.)

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 riparian owner on a water course." (Nov. 22, 1929.)

158.105 War Veterans May Complete High School Course Without Tuition. Each school district in this state shall admit to its twelve-grade school service, without tuition, any veteran of the Armed Forces whose attendance was interrupted, before completing the approved twelve-grade school course, by reason of induction or enlistment in the Armed Forces, who applies for re-enrollment in the public school system of the district of his residence not later than

four years after his honorable discharge from the Armed Forces. However, this is not intended to apply to enrollment by veterans in special courses for whom tuition is paid under the provisions of Federal laws, or otherwise. (1948, c. 123)

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, § 10)

Insurance of school buses, KRS 160.310.

Sectarian school, state aid to prohibited, Const. 189.

Transportation of pupils, regulations concerning, KRS 158.160.

Japs v. Board of Education of Jefferson County, 291 S. W. (2d) 825. Provisions of this section make transportation obligatory as to grade school pupils and optional as to high school pupils.

Bowen et al. v. Meyer et al., 255 S. W. (2d) 490. Under statute requiring boards of education to furnish transportation to elementary pupils who do not reside within reasonable walking distance of the school provided for them, the board was not required to furnish transportation for pupils who resided in a suburban area one to two and one-quarter miles from school and had school safety patrol to escort them across busy streets, along with county traffic patrol women, and to assist them in riding public buses, which pupils could ride to school for a five to six and one-half cent fare. (January 30, 1953.)

Pike County Board of Education et al. v. Varney et al., 253 S. W. (2d) 253. In action by nine-year-old bicycle rider for injuries received when his bicycle collided with school bus at intersection, evidence upon issues of bus driver's negligency and rider's contributory negligence was for jury. Jury gave judgment for $5,000. (December 5, 1952.)

Alford et al. v. Shaw et al., 230 S. W. (2d) 102. Where children were entitled to transportation to embarkation point for the school which County Board of Education designated for their attendance, they were entitled to transportation to same embarkation point even though they chose to proceed from that point to school of their own choice. (May 19, 1950.)

Schmidt et al. v. Payne et al., 304 Ky. 58, 199 S. W. (2d) 990. The hazards and highway conditions of any patricular route should be considered in determining what constitutes a reasonable walking distance from school as respects duty of school board to furnish transportation to pupils, and such hazards and highway conditions may be more decisive than the mere distance involved. (February 18, 1947.)

Roland et al. v. Coleman, 303 Ky. 650, 198 S. W. (2d) 978. School bus operator, in carriage of school children, is not required to guard against consequences which no reasonable man could expect to occur. (January 14, 1947.)

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.)

Smith v. Rose, 293 Ky. 583, 169 S. W. (2d) 609. Superintendent cannot force recommendation of bus operator.

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 highways he is compelled to travel. (1944, c. 156)

Rawlings v. Buler, 290 S. W. (2d) 801. A school board cannot use public school tax money to aid in transportation of children attending parochial or private schools, but the fiscal courts may bear expense of transporting children attending parochial or private schols. In computing amounts to be contributed by the fiscal court towards the transportation of parochial school children, the "per capita" method must be used instead of determining costs on the basis of the initial cost attributable to transportation of parochial students.

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 privlege or requiring tax levies for public purposes only. (November 27, 1945.)

Board of Education of Jefferson County v. Jefferson County, 333 S. W. (2d) 746. It is the duty of a court, in decreeing formula to be used in determining cost to a county board of education of transporting pupils of elementary grades attending nonpublic schools, to choose a formula that best assures that none of the expense of transporting nonpublic pupils will come from the school funds.

Cost to county board of education for transporting pupils attending nonpublic schools should be determined on a straight per capita basis in absence of any clear and unequivocal showing that such formula would not accurately or fairly reflect the costs and that some other formula would.

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 Educa-

tion 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.

Jenkins Independent School District v. Hunt, 237 S. W. (2d) 65. Where boundaries of city extended beyond those of independent school district, and such school district was authorized by statute to charge tuition for nonresident pupils, school board was entitled to an injunction prohibiting father from sending his children to such school until tuition was paid. (March 2, 1951.)

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.

Special education program child in district other than that of his residence, KRS 157.280.

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 assignment 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.

Mosier v. Barren County Board of Health; Stuart v. Barren County Board of Health, 308 Ky. 829, 215 S. W. (2d) 967. Under statutes, school board promulgate and enforce its own rules requiring compulsory vaccination of school children or can enforce in its own right such a rule promulgated by either county or state board of health. (December 17, 1948.)

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

Cross v. Trustees, 120 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, or 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 arbitrary 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.

Certificate of immunization required prior to enrollment, KRS 158.035.

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.

Wooley v. Spaulding, 293 S. W. (2d) 563. The fundamental mandate of the Constitution and statutes is that there shall be equality and that all public schools shall be nonpartisan and nonsectarian.

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)

158.300 Definitions for KRS 158.300 to 158.350. (1) As used in KRS 158.300 to 158.350, unless the context requires otherwise:

(1) "Center" means any child-care center, nursery school, or kindergarten organized for the purpose of providing educational experiences for not less than five children, between the ages of 3 and 6 years, in return for tuition, fees or other forms of compensation; provided, that "center" shall not include any school or college now operating a center authorized by law, any children's home, orphan asylum, children's aid society, public agency operated by a city or county, school district operating a center, or any other organization incorporated and regulated under the laws of the state;

(2) "Superintendent" means Superintendent of Public Instruction;

(3) "Age" means the age attained at a child's last birthday;

(4) "Day" means any twenty-four hour period from twelve o'clock midnight through eleven fifty-nine p. m.

(5) "Permit" includes both a "regular" and "provisional" permit. "Regular" permits are those issued by the superintendent upon satisfactory proof of compliance with the provisions of KRS 158.300 to 158.350. "Provisional" permits are those issued by the superintendent, within the discretion of the superintendent, for the purpose of enabling centers to comply with the provisions of KRS 158.300 to 158.350; no such permits shall be issued for a period exceeding three years' time from the date of issuance, and shall be subject to such rules and regulations providing for inspection, compliance, suspension or cancellation thereof as the superintendent may prescribe as a condition to the issuance thereof. (1962, c. 196, § 5; effective June 14, 1962)

158.310 Permit; Requirements. (1) No person, firm, corporation, association or organization shall conduct, operate, maintain or

establish a center unless a permit therefor has been issued by the superintendent, and such permits shall not be transferable.

(2) Each center in operation as of the effective date of KRS 158.300 to 158.350 shall, within sixty days thereafter, make application to the superintendent, on a form provided for that purpose, for a permit. Permit application forms shall be as prescribed by the superintendent and shall include the following:

(a) The name and address of the center, its owners, operators, instructors, assistants and personnel engaged in the operation of the center;

(b) Certificates from the local county health officer, fire marshal or, in his absence, the chief of the fire department, building inspector and such other inspecting personnel as may be designated by the superintendent showing that the applicant has complied with all conditions required by such officials.

(3) If a permit is not issued within three months from the date of application the applying center shall cease to operate. No center shall be established, or operate, after the effective date of KRS 158.300 to 158.350 except as herein provided.

(4) Each initial application for a permit hereunder shall be accompanied by the payment of a fee in the amount of thirty-five dollars and shall, excepting provisional permits, be renewable upon expiration and re-application when accompanied by payment of a fee in the amount of ten dollars, subject only to compliance with the provisions hereof. Regular permits, and renewals thereof, shall expire one year from their effective date. Each center shall post its permit in a conspicuous place. No change in address may be effected by any center without the approval of the superintendent.

(5) The superintendent shall, pursuant to regulations adopted by the State Board of Education under KRS 158.330, regulate the issuance of permits to established centers not meeting the requirements of KRS 158.300 to 158.350, and may revoke the permit of any center failing to meet such requirements within a reasonable period of time. (1956, c. 168, § 2)

158.320 Centers, Inspection of; Records to be Kept; Reports to be Made. Centers shall, at all times, be open to inspection by such persons and inspectors as are herein provided for and shall keep such records, furnish such information and reports, and comply with such rules and regulations as may be adopted and published pursuant to the provisions of KRS 158.330. (1956, c. 168, § 3)

158.330 Board of Education to Make Rules and Regulations. The State Board of Education shall promulgate reasonable rules and regulations, not inconsistent herewith, to properly administer the provisions of KRS 158.300 to 158.350. (1956, c. 168, § 4)

158.340 Fees to be Paid into State Treasury, Credited to Special Fund. All fees collected under the provisions of KRS 158.300 to 158.350 shall be paid into the State Treasury, and credited to a special fund for the purpose of administering KRS 158.300 to 158.350. (1956, c. 168, § 5)

158.350 Advisory Committee, Appointment of; Duties. There shall be an advisory committee, consisting of five members appointed by the superintendent, to advise and consult with the superintendent in the development of rules and regulations, and the ensuring of compliance with the provisions of KRS 158.300 to 158.350. (1956, c. 168, § 6)

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.

(5) Any member of a school board who votes to permit entrance to a school of any child not eligible therefor under the provisions of KRS 158.030 shall be fined not less than five dollars nor more than fifty dollars. (Subsection (5) added, 1952, c. 145, § 2)

CHAPTER VI

COMPULSORY ATTENDANCE

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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] **Transferring 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) Whose physical or mental condition prevents or renders inadvisable attendance at school or application to study; or

(d) 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) Before granting an exemption under paragraph (c) 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. (1948, c. 107, § 27)

Part-time schools for employed children, KRS 339.380.

Special employment certificate for child incapable of profiting from further schooling, KRS 339.290.

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 privlege or requiring tax levies for public purposes only. (November 27, 1945.)

159.035 Participation in 4-H Activities to be Considered Attendance. Anything in the statutes of the Commonwealth to the contrary notwithstanding, all pupils in the schools of the state who are enrolled in a properly organized 4-H Club shall be considered present at school for all purposes when participating in regularly scheduled 4-H Club educational activities, provided, the student is accompanied by or under the supervision of a county extension agent or the designated 4-H Club leader for the 4-H Club educational activity participated in. (1960, c. 245; effective June 16, 1960)

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.

Special education facilities for handicapped or exceptional children, KRS 157.200 to 157.295.

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.

159.080 [4434-6] **Director of Pupil Personnel; Appointment; Qualifications.** (1) Each board of education shall, upon the nomination and recommendation of the superintendent, appoint a director of pupil personnel and such assistants as are deemed necessary. Salaries of directors and assistants shall be fixed by the board of education.

(2) Directors of pupil personnel and assistants shall have the general qualifications of teachers and, in addition, shall hold a valid certificate issued in accordance with the rules and regulations of the State Board of Education. Certificates valid on January 1, 1956, for attendance officer shall hereafter be valid for the positions of director of pupil personnel. Such certificates shall be reissued or renewed in accordance with the terms of the State Board regulations applying at the date of issue. (1956, c. 237, § 1)

Bernard v. Humble, 298 Ky. 74, 182 S.W. (2d) 24. An attendance officer is a public officer and not an employe.

159.090 [4434-6] **Director of Pupil Personnel for United Districts.** The boards of education of two or more contiguous school districts may unite to form one attendance district and shall appoint such directors of pupil personnel as are necessary. The superintendents of the districts concerned shall jointly make the nominations and recommendations relating to the directors of pupil personnel to the boards of education meeting jointly, and a majority vote of each board shall determine all questions. The salary of directors of pupil personnel in united districts shall be borne by the employing boards in the proportion that the average daily attendance of each district bears to the total average daily attendance of the united district. (1956, c. 237, § 2)

159.110 [4434-6] **Expenses of Directors of Pupil Personnel.** Directors of pupil personnel and assistants shall be allowed their necessary and authorized expenses incurred in the performance of their duties. Each board shall bear the expense of its directors of pupil personnel and assistants incurred in its district. (1956, c. 237, § 4)

159.120 [4434-7] **Office Quarters of Directors of Pupil Personnel.** The office of the superintendent of schools shall be the office of the director of pupil personnel and suitable space shall be provided therein or adjacent thereto for him. (1956, c. 237, § 4)

159.130 [4434-12; 4434-13] **Powers of Directors of Pupil Personnel.** The director of pupil personnel and his assistants 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 non-attendance 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 directs. They may under the direction of the superintendent of schools and the board of education or the State Board of Education institute proceedings against any person violating any 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 employment of children of compulsory school age. No person shall refuse to permit or in any way interfere with the entrance therein of a director of pupil personnel or in any way interfere with any investigation therein. (1946, c. 30; 1956, c. 237, § 5)

159.140 [4434-6; 4434-8; 4434-9; 4434-10] **Duties of Directors of Pupil Personnel.** The director of pupil personnel 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 and by the superintendent and board of education. (1956, c. 237, § 6)

Board of education to furnish books and supplies for indigent children, KRS 160.330.
Child labor law, duties under, KRS 339.450.
Reports as to handicapped children, KRS 157.260.

Board of Education of London Independent School District v. Miller, 299 S. W. (2d) 626. Statutes required that attendance officer devote full time to the duties of his office. Clerical duties had little or no relation to the duties of attendance officer. An employe could not occupy dual position of part-time clerk and attendance officer.

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 by the child. Before any proceedings are instituted against the parent, guardian or custodian for violation of KRS 159.010 to 159.170, 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 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. (1958, c. 126, § 16)

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.

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

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160.632 Reimbursement of districts for school services to out-of-district children; reports; payment.
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.

Thomas, et al. v. Spragens, et al., 308 Ky. 97, 213 S. W. (2d) 452. Section 160.050 provides the exclusive procedure by which independent school districts may annex territory of county school district, and boundaries of Lebanon Independent School District were not extended by virtue of annexation of adjacent territory by city of Lebanon by proceedings for having no relation to school purposes. (June 25, 1948.)

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 description 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 the 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.

Nethery et al. v. McMullen et al., 230 S. W. (2d) 79. Where Shelby County had operation control of high school located in Mt. Eden school district lying in Shelby and Spencer Counties, and district was abolished, and both counties continued to operate school until Spencer County agreed to pay Shelby County tuition rate for each Spencer resident educated in school, and State Board of Education deferred accrediting school because it did not report sixty pupils during year, action by Shelby Board of Education in consolidating high school with other high schools in county, which were located as advantageously as possible for all students in county, and continuing Mt. Eden school for first nine grades, was not an abuse of discretion. (May 16, 1950.)

Thomas, et al. v. Spragens, et al., 308 Ky. 97, 213 S. W. (2d) 452. Section 160.050 provides the exclusive procedure by which independent school districts may annex territory of county school district, and boundaries of Lebanon Independent School District were not extended by virtue of annexation of adjacent territory by city of Lebanon by proceedings for having no relation to school purposes. (June 25, 1948.)

Board of Education of City of Corbin v. City of Corbin, et al., 301 Ky. 686, 192 S. W. (2d) 951. 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.)

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 Districts.** 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.

Board of Education of Caverna Independent School District et al. v. Butler et al., 256 S. W. (2d) 516. Contiguous school districts, portions of which lay in different counties, could under statute, merge into one school district, and fact that merger gave rise to difficult question of a fiscal nature did not make merger unconstitutional or invalid. (March 27, 1953.)

Hopkins County Fiscal Court et al. v. Commonwealth ex rel. Attorney General et al., 252 S. W. (2d) 875. Where program for merger of two boards of education appear to be financially sound and within the limits of authority granted by the legislature to boards of education, Fiscal Court might not substitute its judgment as to soundness of program for that of boards.

We find no merit in the Fiscal Court's argument that the board is acting arbitrarily and is abusing its discretion. The program appears to be financially sound and is within the limits of authority. The contention that the program has not been approved by the Superintendent of Public Instruction also is without merit. (November 13, 1952.)

Board of Education of Hopkins County et al. v. Hopkins County et al., 247 S. W. (2d) 54. Opponents to the action of the Hopkins County Board of Education and the Madisonville Independent District Board of Education in effecting a merger of the Hopkins

County District and the Madisonville Independent School District could not have such merger declared invalid because of the fact that the merger agreements showed:

That the Madisonville Independent District was included in one or more of the five educational divisions from which board members would be elected.

That the merger itself does not affect effectually the building program nor change the school system in any way.

That the new superintendent would receive an increase in salary over that he had received as superintendent of the independent district. (March 7, 1952.)

Hopkins County Board of Education v. Hopkins County et al., 242 S. W. (2d) 742. Court held that the merger was legal but left open an opportunity for appellees or other parties to bring new suit to call attention to any illegal or arbitrary action of the merged boards. (August 20, 1951.)

LaFollette et al. v. Ovesen et al., 236 S. W. (2d) 457. The statute providing for merger of independent school districts with county school districts by agreement, without directions as to terms or conditions of merger, is supplementary to and not in conflict with previous statute providing that members of all merged contiguous school district's Boards of Education may serve out terms for which they were elected, so that merged county school district's and contiguous independent school district's Boards of Education had authority to agree that members of independent district board should serve on new enlarged district's board until expiration of their terms. (January 30, 1951.)

Martin v. Board of Education of Bath County, et al., 284 Ky. 818, 146 S. W. (2d) 12. 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, 113 S. W. (2d) 5. 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 obligations 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.)

Stull et al v. Webester County Board of Education et al., 339 S. W. (2d) 189. 1960. Where county school districts were required by statute to be divided into five divisions nearly equal in population and to contain integral voting precincts insofar as practicable and statute prohibited change in division boundary lines, except in case of merger or annexation, more frequently than five years from last change, and where independent school district merged into county district, county board of education adopted an order changing division boundaries, and there was no subsequent merger of districts or annexation, the circuit court was without power to require board to redivide district within the five-year period following date of redivision.

1960. The question whether county board of education acted wisely or unwisely in its decision to consolidate high schools of county, and erect a central building, is not a matter for judicial determination, and only question the court can determine on review is whether the board has exceeded its authority or acted arbitrarily. Ibid.

1960. In class action by citizens, taxpayers and patrons to enjoin consolidation of high schools of county and incurrence of debt for cost of erecting a central building, evidence showed that county board of education gave a great deal of study and deliberation before it determined to consolidate, and sustained actions of the board. Ibid.

1960. Fact that the five divisions of county educational district, from which members of county board of education were elected, did not comply with statutory requirement that they be nearly equal in population and contain integral voting precincts insofar as practicable, did not render board's action in consolidating schools void, and board's action could not be collaterally attacked on that basis. Ibid.

160.041 Merger of Independent District With County District. (1) When a board of education of an independent school district desires to have its district become a part of the county school district, it shall by motion so record its desire in the minutes of the board. The board, or its executive officer, shall convey this request to the county board of education. At its next regular meeting, or at a special meeting held prior thereto, the county board of education shall pass upon this request.

(2) If the county board of education refuses, or the two boards of education cannot agree upon such a proposition of merger of the independent district with the county district, the independent board of education may appeal to the Superintendent of Public Instruction and ask that its request to become a part of the county school district be submitted to the State Board of Education for final settlement.

(3) If the State Board of Education approves the proposition of merger, it shall become effective and the independent district shall become a part of the county school district on the basis of the conditions of merger as set out by action of the State Board of Education. (1948, c. 238)

Hopkins County Board of Education v. Hopkins County et al., 242 S. W. (2d) 742. Court held that the merger was legal but left open an opportunity for appellees or other parties to bring new suit to call attention to any illegal or arbitrary action of the merged boards. (August 20, 1951.)

LaFollette et al. v. Ovesen et al., 236 S. W. 457. The statute providing for merger of independent school districts with county school districts by agreement, without direction as to terms or conditions of merger, is supplementary to and not in conflict with previous statute providing that members of all merged contiguous school districts' Boards of Education may serve out terms for which they were elected, so that merged county school district's and contiguous independent school district's Boards of Education had authority to agree that members of independent district board should serve on new enlarged district's board until expiration of their terms. (January 30, 1951.)

160.042 Election of Members; Present Terms to Continue. (1) Upon a merger under the provisions of KRS 160.040 and 160.041 of an independent school district in a city of the first class with a county school district in counties containing a city of the first class, the members of the county board of education of the merged county school district, shall be elected from the county school district at large.

(2) Each member of the respective boards of education at the time of the merger of the districts, may continue to hold office until the expiration of his or her term of office, but any vacancy occurring among such members for any reason shall not be filled. (1952, c. 90, § § 1, 2; 1958, c. 126, § 17)

160.044 Time of Election and Terms of Merged District Board Members; Vacancies. (1) At the regular November election during the first even numbered year nearest to the time of the merger of the districts, as above set out, two members of the county board of education shall be elected from the county at large for a term of four years, and two years after such first election, three members of the county board of education shall be elected for a term of four years, and in each even numbered year thereafter an election shall be held from the county at large to fill the membership of the county

board of education for the term 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 qualified.

(2) Any vacancy occurring in the membership of the county board after members have been elected from the county at large, shall be filled as now provided by KRS 160.190. (1952, c. 90, §§ 3, 4)

160.045 Transfer of Adjacent Territory to School Districts Other Than That In Which It Is Located; Procedure; Surplus Physical Plant or Facilities. (1) If seventy-five per cent of either the registered voters or property owners in an area adjacent to either a county or independent school district petition the respective school boards for a transfer of said property to the school board district other than that in which it is located or if either board initiates such action, the school boards may affect such transfer by agreement, duly spread upon the minutes of their respective boards.

(2) In the event that the boards fail to agree within ninety days from the filing of petitions for such a transfer, either board may petition the Superintendent of Public Instruction for approval or disapproval of the transfer of the property involved. In his consideration for giving approval or disapproval, he shall be governed by any policies and rules and regulations of the State Board of Education which may be affected by the transfer of the property and shall give due consideration to the following: the ratio of the wealth of the territory involved in its relation to the total wealth of the district from which the territory will be annexed; the effect of the proposed territorial loss or gain on the educational programs of the respective districts; extent of and effect on the physical plant, facilities and equipment available in each of the affected districts; the indebtedness and bonded or rental obligations of the respective districts; any contemplated indebtedness or obligation arising out of the proposed transfer; and such other factors as may have a bearing upon the determination of the desirability of the proposed annexation from the vantage point of all interested persons.

(3) In those instances where the requested transfer will result in a surplus of physical plant, facilities or equipment in the transferring school district, the Superintendent of Public Instruction shall determine an equitable plan for the transfer of any such surplus to the annexing district as his plan may determine will be needed.

His plan shall be based on the fair value of such property on a replacement basis, taking into consideration its age and condition. In any considerations and suggestions which he may propose for the settlement of the differences between the boards of education, he shall be bound by any agreements outstanding between the boards of education of the school districts upon the effective date of this law.

(4) In the event the Superintendent of Public Instruction is unable to arrive at a satisfactory agreement with the two boards of education concerning the transfer of the involved property within one hundred twenty days from the time it is presented to him, either board may request that he bring the matter on for hearing before the State Board of Education at its next regularly scheduled meeting. In that event, he shall file with the State Board of Education all the facts which he has gathered, the recommendation he has made, and the basis for his recommendation, for their consideration.

(5) Within at least ten days before the holding of any hearing provided for in subsection two or subsection four of section 160.045 of the Kentucky Revised Statutes, the Superintendent of Public Instruction shall serve written notice thereof, by registered mail, on the respective boards fixing the time and place at which the hearing shall be conducted. All hearings provided for herein shall be open to the public, and any interested person may appear and be heard in accordance with such rules and regulations as the State Board of Education may prescribe with reference thereto. (1956, c. 240, § 1)

Lexington Independent School District, 250 S.W. (2d) 1017. KRS 160.045 does not violate sections 2, 19, 52 of the Kentucky Constitution.

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 asssesed valuation of property taxable for school purposes in the district losing the territory. (1942, c. 197)

Title to school property in transferred territory, KRS 162.020.

Board of Education of Fayette County et al., v. Board of Education of Lexington Independent School District et al., 250 S. W. (2d) 1017. Favorable vote on question of levying special school building tax in county school district merely granted authority to taxing power to levy tax in addition to maximum school levy provided by statute, and did not impose a tax in future.

Favorable vote on question of levying special school building tax in county school district to pay rentals for school buildings to be erected and financed by fiscal court by issuing revenue bonds did not create an indebtedness and such tax was leviable each year, only upon property within the district at the time annual levy was made, and property transferred to city school district after special tax was voted, was not liable for special tax levied after transfer.

City school district to which territory was transferred from county school district was not liable for any part of such revenue bonds under statute providing for assumption of proportional part of indebtedness, since revenue bonds did not constitute an indebtedness of county school district. (June 20, 1952.)

Board of Education of Kenton County v. Mescher et al., 310 Ky. 453, 220 S. W. (2d) 1016. The statute granting owners of realty in territory, which may become incorporated in any municipality and is located in county school district, to demand that property be placed in school district in which greater part of municipality is located, does not violate the Constitution prohibiting special legislation where a general law can be made applicable. KRS 160.045; Const. sec. 59, subd. 29. (May 27, 1949.)

Thomas et al. v. Spragens et al., 308 Ky. 97, 213 S. W. (2d) 452. Section 160.050 provides the exclusive procedure by which independent school districts may annex territory of county school district, and boundaries of Lebanon Independent School District were not extended by virtue of annexation of adjacent territory by city of Lebanon by proceedings for having no relation to school purposes. (June 25, 1948.)

160.160 [4399-17; 4399-18] **Board 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.

Joint board on consolidation of counties, KRS 67.300.
Jury service, members of boards of education exempt from, KRS 29.030.

Perry County Board of Education, et al. v. Deaton, et al., 311 Ky. 227, 223 S. W. (2d) 882. County boards of education are given broad discretion under statute in the selection of school sites and in the establishment of schools as they deem necessary for the promotion of education and the general welfare of the public. KRS 160.160, 160.290.

Where county board of education has obtained approval of superintendent of public instruction of its plans for a new building, courts will not interfere with proposed plans unless there is positive proof of fraud, collusion or a clear abuse of discretion. (October 18, 1949.)

Kirwan v. Speckman, 313 Ky. 578, 232 S. W. (2d) 841. Where member of school board accepted an apparently incompatible job and then cast the deciding vote on contract to construct school, a declaratory action by a taxpayer, who was not a claimant for the position on the school board, attacking validity of school board's action on grounds that member in question had vacated his office prior to vote on contract, was in reality an ouster proceeding, and as it was not being prosecuted by the Attorney General or by a claimant to the position on school board, could not be maintained by taxpayer.

Lewis v. Morgan, 252 S. W. (2d) 691. A county board of education possesses not only the powers specifically conferred by statute, but also such powers as are reasonably inferred from the express powers and the objects to be attained by its creation.

Board of Education of Berea v. Ballard, 299 Ky. 370, 185 S. W. (2d) 538. A board of education has authority to maintain an action in its own name, against delinquent taxpayers, to recover judgment for delinquent school taxes and to enforce the tax lien, and is not required to await the ordinary process of distraint and sale by the tax collector.

Justice, et al. v. Clemons, et al., 308 Ky. 820, 215 S. W. (2d) 992. Selection of school site is particularly for exercise of unfettered good faith judgment of county boards, and after approval by state superintendent of public instruction, courts will not interfere without positive proof of fraud, collusion, or clear abuse of discretion. (December 17, 1948.)

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, 151 S. W. (2d) 42. 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.)

Board of Education v. Society of Alumni of L.M.H.S., 239 S. W. (2d) 931. 1951. School boards have no powers except those relating to operation and management of public schools and they are vested with broad governmental powers and management of public schools under their jurisdiction.

1951. A local school board is a quasi-municipal corporation and is governed by rules applicable to strict municipalities. Ibid.

1951. Public education is a function of state government and the members of the boards of education are state officers.

Holbrook v. Board of Education of Jefferson County, 300 S. W. (2d) 566, March 29, 1957. Where deed to county board of education provided that if a school house was erected on property and no school maintained in the school house before expiration of five years from the date of the deed, board should, upon demand, reconvey property without consideration but that if a school house was erected within period of five years and school maintained then the property should remain property of board in fee simple, the condition contemplated that as of a definite date the title should vest in the board in fee simple.

Where County Boaard of Education covenanted that property should be used solely as a school for white children, reasonable construction thereof was that it specified how school should be operated, rather than period of time school should be maintained.

Even if the deed to the County Board of Education were construed to require continued operation of school without time limitation, condition of forfeiture could not be read into deed.

Spalding v. Wooley, 309 S. W. (2d) 42. A formal court order gave the county board of education a choice of re-establishing a four-year high school in the eastern section of Marion County or establishing a centrally located county high school. The State Department of Education recommended that the county board of education enter into agreement with the city school system of Lebanon for joint operation of high school for the eastern part of the county and that another school should serve as a school for the western part of the county. The county board of education did not make either choice as directed by the formal court decision. Because of this indecision the Court of Appeals held that it was within the power of the circuit court to make a choice for the board by directing the establishment of a single centrally located high school.

It was the opinion of the State Board of Education that an adequate central county high school could not be constructed with the funds available.

The Court of Appeals said we believe that during the interim period pending construction of new school the children of the eastern part of the county would be best served by adopting the joint operating agreement for the Lebanon City School as proposed by the State Board of Education, or if for practical reasons that cannot be done during the balance of the present school year and for the following school year, then by continuing the present tuition agreement.

During the interim period excepting the remainder of the present school year, the county board of education will be enjoined from furnishing free transportation to, or paying tuition of, any high school student for attendance at any other school than the one most accessible to its place of residence.

Hogan v. Glasscock, 324 S. W. (2d) 815. Despite absence specific statutory authority for school board to employ an attorney, members of county board of education had implied authority to employ an attorney to represent them in actions which were defended by them for the protection of the board's corporate action and decisions. Members had implied power to expend school funds for attorney's fees and court costs in defending the actions. The Legislature has authorized local boards of education to control and manage the affairs of school districts and to promote public education in such ways as it deems necessary and proper. The expenditures of funds involved in this case did not violate Section 186 of the Constitution. The board was impliedly authorized by the Legislature to make them in connection with the promotion of public education.

Boards are authorized to employ an accountant to make complete audit of school records. Although there is no specific statutory authorization for employing an accountant, the school board, like a municipality or any other governmental agency created by the Legislature, possesses not only the powers specifically conferred but also such implied powers as are reasonably inferred from the express powers and the objects to be attained by its creation.

Howell v. Haney, 330 S. W. (2d) 941. At a special election held on March 28, 1959, the voters of LaRue County approved an additional tax levy for certain school purposes in LaRue County School District.

Thereafter, action was instituted for the dual purpose of obtaining a judicial recount of the ballots and to contest the legality of the election on several grounds. The appelles (defendants) filed a motion to dismiss the action, asserting that the statute authorizing a contest of an election on a public question, KRS 122.140, requires that the action be maintained "against the county, city, or district in which the election was held," and that neither the county of LaRue nor the LaRue County School District

had been made parties to the suit. The motion also questioned the court's jurisdiction on the ground that the "petition" seeking the contest was not posted as required by KRS 122.140. The court was of the opinion that both these grounds were meritorious. Thereupon, the court sustained the motion and dismissed the action.

Boards of education are bodies corporate with power to sue and be sued in their corporate name. Where county voters approved an additional tax levy for certain school purposes in county school district, County Board of Education and county were indispensable parties to action for judicial recount of ballots and to contest the legality of election.

New and additional grounds of contest may not be added by amendment after time for filing preceding contesting election has expired.

Where original petition in election contest was defective because all necessary parties were not made defendants, defect could not be cured by amended petition naming all necessary parties where amended petition was filed after time for filing petition had expired, since to allow adding a new party would be asserting the contest against such party for first time.

Moore v. Babb, 343 S. W. (2d) 373, 1961. A county board of education is vested with the duty and authority of administering the schools within its district, including the employment of teachers, according to the terms of the statute.

1961. A public corporation may act only as a body, properly convened and functioning as such; and separate individual action of its members is ineffectual. Ibid.

1961. The members of a county board of education who deprive a teacher of a contract to which he has acquired a right under the terms of the statutes may be held personally liable in damages for the teacher's loss of salary in the absence of estoppel or other bar and upon proper proof; the basis of personal liability is the failure to perform a ministerial duty, and the board is exempt from liability where it has paid another teacher placed in the position. Ibid.

1961. Generally, contracts of public bodies, like those of individuals, are made with reference to existing statutes, and such statutes enter into the contracts by operation of law. Ibid.

1961. Action by teacher who had been notified that there would be no renewal of her contract, for injunctive relief by way of order compelling county board of education to assign its corporate name; and if the members of the board were to be joined, they should have been sued as officials rather than as individuals. Ibid.

Lewis v. Bd. of Ed. of Johnson County, 348 S. W. (2d) 921. 1961. A member of the governing board cannot act separately or individually to bind a municipality.

1961. Governing board of municipal corporation, such as city, county or board of education, can speak only through its records and can confer authority to make or terminate contracts only by proper proceedings at meeting regularly called and held and acts duly recorded and authenticated. Ibid.

1961. Formal records of municipal corporations are only legal evidence of all that was done, and records cannot be enlarged or restricted by parol evidence. Ibid.

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 engagements of employes.

".....

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

".....

The oath shall be kept on record by the board.

Broyles v. Com. 309 Ky. 837, 219 S.W. (2d) 52. Quo warranto proceeding instituted on January 1, to prevent usurpation of office by person elected to board of education for term beginning January 3, on ground that he did not possess the necessary educational qualification was premature, and amendment of petition filed after January 3 did not cure the defect. Such proceeding could not be instituted until after alleged usurper had actually assumed or taken possession of the office, and the fact that he had taken and filed the oath of office was not enough. Injunction could not be obtained to prevent him from assuming office, since quo warranto is sole remedy for usurpation.

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, stationery 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.

Commonwealth ex rel. Buckman, Jr., Atty. Gen. v. Preece, Clark et al. v. Preece, 257 S. W. (2d) 51. Statutory requirement that member of county board of education must have completed at least the eighth grade in common schools must be met before such member is elected to office.

Appellee did not establish by the methods provided by KRS 160.180(c) that he had successfully completed the eighth grade at the Lynn Bark School and that the judgment declaring the appellee to possess the educational qualifications for the office of board member is erroneous and should be to the contrary. (February 6, 1953.)

(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.

Incompatible offices, 61.080; Const. 165, 237.

Removal of board members, KRS 156.132 to 156.146; KRS 415.030 and 415.060, removal of officers generally.

Hall et al. v. Allen et al., 231 S. W. (2d) 702. Where member of county board of education appeared before board and tendered his resignation in order to remove himself so that another person could be appointed, and another person was appointed and undertook to act as a duly qualified member of the board, the office was "abandoned" by the member who tendered resignation. (July 6, 1950.)

Kirwan v. Speckman, 232 S. W. (2d) 841. A member of board of education is a state and not a county officer. (June 6, 1950.)

Commonwealth, by Funk, Attorney General, v. Clark; Commonwealth by Frank, Attorney General v. Waters, 311 Ky. 714. The burden rests on person whose educational qualification as member of county board of education is properly challenged, as in action in nature of quo warranto, to establish his eligibility by school records, affidavits of one or more teachers under whom he completed required school work, or present examination. The statute prescribing ways of establishing educational qualifications of member of county board of education does not contemplate consideration of verbal testimony of member or his schoolmates as to his completion of required school work. A documentary official record should be accepted as evidence of fact to which it relates where it is not impeached and person making contradictory affidavit testifies that fact stated therein was otherwise. (November 11, 1949.) (Rehearing denied January 10, 1950.)

Board of Education of Martin County et al. v. Cassell, 310 Ky. 274, 220 S. W. (2d) 552. Duty elected member of county board of education was a state officer and if, after he had qualified by taking oath of office, he was removed because he lacked educational qualifications, it was necessary that removal be by proper proceedings by the Commonwealth on the relation of Attorney General or under his authority. KRS 160.180.

County board of education cannot declare vacant the seat of a member who has been duly elected and has qualified, on ground that member does not possess some statutory qualifications for membership. KRS 160.180. (May 10, 1949.)

Commonwealth by Dummit, Att. Gen. v. Mullins, 307 Ky. 383, 211 S. W. (2d) 133. Statute providing that members of county boards of education must have an eighth grade education and setting forth manner in which qualification may be shown is mandatory, and one or other of specific methods of furnishing proof.

Neither affidavit of board member's teacher which stated that he taught all the grades except the eighth, nor certificate of registrar of normal school showing that member had been registered in the normal school for one term, was sufficient to show that member was eligible for office. KRS 160.180. (May 7, 1948.)

Salyers v. Lyons, 304 Ky. 320, 200 S. W. (2d) 749. Board of Education cannot declare office of board member vacant. Attorney General only has his authority. (March 21, 1947.)

Commonwealth v. Mullins, 286 Ky. 242, 150 S. W. (2d) 686. 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 manfiested 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. (November 4, 1936.)

Hall v. Boyd County Board of Education, et al., 265 Ky. 500, 97 S. W. (2d) 38. 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.)

Montague v. Collins. Heird v. Collins, 296 Ky. 57, 176 S.W. (2d) 79. Election certificate does not preclude inquiry into eligibility of successful candidate for board member.

Com. v. Mullins, 307 Ky. 383, 211 S.W. (2d) 133. Provisions of subsection (1) (c) of this section are mandatory and applicant must prove qualification of eighth grade education by one of the methods provided.

Commonwealth v. Sizemore, 243 S. W. (2d) 671. 1951. Where, in proceedings to disqualify member of county board of education on grounds of insufficient education, state did not undertake to deny execution of school teacher's affidavit purporting to establish member's educational qualifications, the state was not required to attack the facts asserted by the affidavit by a verified pleading.

1951. In absence of contradictory proof, eligibility for membership on county board of education could be established by teacher's affidavit without more, but in action by state to adjudge member of education board disqualified, such affidavit was not conclusive of qualifications. Ibid.

Lear v. Commonwealth ex rel. Ferguson, 317 S. W. (2d) 492. In action to remove the defendant from office as a member of the county board of education on the ground that he did not meet statutory qualification of having an eighth grade education, wherein the defendant filed an affidavit of his alleged teacher stating that the defandant had attended a certain school at age of sixteen years and had successfully passed eighth grade final examinations and the defendant testified that he attended school under such teacher in that year, court was entitled to treat school records showing that such teacher did not teach the eighth grade at that school in that year as overcoming affidavit.

Limitations as to kinds of proof a school board member may utilize to establish his educational qualification necessary to serve as a member of the county board of education are not applicable proof of his lack of qualification, and lack of qualification may be proved by any evidence that would be competent under ordinary rules of evidence to establish the fact in issue.

Commonwealth v. Coffee, 329 S. W. (2d) 203. 1959. In action to remove party as member of county board of education on ground that he did not meet statutory qualification of having an eighth grade education, party failed to meet burden of establishing his educational qualification to a reasonable satisfaction.

1959. A teacher's affidavit that member of county school board had an eighth grade education is weakest kind of proof and its value must be considered in light of

other evidence in determining whether school board member has met requirement that he have an eighth grade education. Ibid.

1959. Under statute requiring that members of county boards of education have an eighth grade education, qualification of having an eighth grade education must be established to a reasonable satisfaction, requirements a stringest one, statutory provisions as to methods of proof are mandatory, and burden rests upon board member to establish his eligibility. Ibid.

Commonwealth v. Jones, 329 S. W. (2d) 217. 1959. In action to disqualify a member of the Board of Education on ground that he had not, as required by the statutes, completed the eighth grade in school, where there were conflicting affidavits as to whether the member had finished such grade, summary judgment for the member was improperly granted.

Harris v. Commonwealth, 342 S. W. (2d) 535. 1961. Question of whether school board member became disqualified by becoming directly or indirectly interested in sale to board of stationery and similar supplies would not be decided when such member's term of office expired during pendency of appeal.

Commonwealth v. King, 343 S. W. (2d) 139. 1961. Neither failure of a county school board member to produce a certificate showing completion of the eighth grade, nor fact that he enrolled in a seventh grade after having completed the eighth grade, was sufficient, for purposes of determining his eligibility to serve on the board, to overcome probative value of statement contained in his teacher's affidavit to the effect that he successfully completed the eighth grade.

1961. This section requiring an eighth grade education as a condition of eligibility to serve on a county board of education does not require that a board member possess a certificate showing completion of the eighth grade, but it is sufficient if a member proves such completion. Ibid.

1961. Evidence sustained finding that defendant was legally qualified to hold office as member of county board of education, and that he was not ineligible on theory he did not have an eighth grade education, or was employed by the board at time of his election. Ibid.

Choate v. Commonwealth, 347 S. W. (2d) 81. 1961. Attorney General's letter announcing withdrawal of authorization to proceed in quo warranto case, and defendant's motion to dismiss, all filed prior to entry of judgment, constituted voluntary dismissal, and trial court erred in rendering judgment on merits.

160.190 [4399-30] **Vacancies; How Filled.** Any vacancy in any board of education shall 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.

W. L. Gearhart et al., v. Kentucky State Board of Education et al., 355 S.W. 2d — 667 (Carter County). The court held that the State Board had statute authority to remove an entire membership but that the State Board could not validly remove member of county board one day after she took office.

Kash v. Day, et al., 239 S. W. (2d) 959. Since the person elected to office was not eligible to hold the office, a vacancy existed on the date the term of office of such person would have begun had he been eligible. The limitation period on authority of the board to fill the vacancy began to run the day the vacancy began.

Since it was not filled by the board within 90 days, the board had no power to fill it. (May 15, 1951.)

McClendon, et al. v. Hamilton; Action v. Jasper, et al., 277 Ky. 734, 127 S. W. (2d) 605. 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 trustees 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.)

Choate v. Commonwealth, 347 S. W. (2d) 81. 1961. Attorney General's letter announcing withdrawal of authorization to proceed in quo warranto case, and defendant's motion to dismiss, all filed prior to entry of judgment, constituted voluntary dismissal, and trial court erred in rendering judgment on merits.

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 fill 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 prevailing 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.)

Harris v. Commonwealth, 342 S. W. (2d) 535. 1961. Question of whether school board member became disqualified by becoming directly or indirectly interested in sale to board of stationery and similar supplies would not be decided when such member's term of office expired during pendency of appeal.

160.210 [4399-24] **Manner of Election of Board Members; Changes in Boundary Lines of Divisions of County School Districts.** (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 division 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, KRS 160.220 to 160.250.

(3) No change shall be made in the boundary lines of the present divisions of the county school district until January 1, 1959, except in the case of merger of districts or change in territory due to annexation. Any changes made in division boundary lines shall be such as will make divisions as nearly equal in population and containing integral voting precincts in so far as is practical. No change may be made in division boundary lines more frequently than five years after the last change in any division line, except in case of merger of districts or change in territory due to annexation. A record of all changes in division lines shall be kept in the office of the county board of education, and shall be published in a newspaper of general circulation. A copy of the newspaper in which the notice is published shall be filed with the Superintendent of Public Instruction within ten days following its publication. No change shall be made in the boundary of any division after January 1 prior to the date on which a member of the school board is to be elected from any division. (1956, 1st ex. s., c. 7, Article II, § 6)

Commonwealth ex rel. Meredith, Atty. Gen. v. Whitt, et al., 291 Ky. 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.)

Board of Education of Hopkins Co. v. Hopkins Co., 247 S. W. (2d) 54. Since former subsection (4) provided adequate and complete remedy by appeal to the county court from action of board of education designating divisions of county for purpose of electing school board members, question was not properly raised in proceeding to have merger of city and county boards of education declared invalid.

Holcomb v. Mayes, 290 S. W. (2d) 486. Statute providing for appeals to Court of Appeals in certain cases is not repugnant to or irreconcilable with statute providing for appeals only to county court, and circuit court in school district boundary cases, the former statute did not repeal the latter by implication.

Stull et al. v. Webster County Board of Education et al., 339 S. W. (2d) 189. 1960. Fact that the five divisions of county educational district, from which members of county board of education were elected, did not comply with statutory requirement that they be nearly equal in population and contain integral voting precincts insofar as practicable, did not render board's action in consolidating schools void, and board's action could not be collaterally attacked on that basis.

1960. Where county school districts were required by statute to be divided into five divisions nearly equal in population and to contain integral voting precincts insofar as practicable and statute prohibited change in division boundary lines, except in case of merger or annexation, more frequently than five years from last change, and where independent school district merged into county district, county board of education adopted an order changing division boundaries, and there was no subsequent merger of districts or annexation, the circuit court was without power to require board to redivide district within the five-year period following date of redivision. Ibid.

1960. The power to redivide a county school district is vested in the county board of education and not in the circuit court. Ibid.

1960. Under statute providing that no change shall be made in boundary lines of present divisions of county school district, except in case of merger of districts or change in territory due to annexation, more frequently than five years after last change in any division line, where there had been a merger of an independent school district with county district,, the county board of education was required to redivide its territory to take care of the increased constituency, and after board had so redivided district, the date of redivision was the commencement of a new five-year period of stability, which might be opened up only in the event of another merger. Ibid.

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.

Note—These state not less than 45 days and not more than 60 days before election. 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 also have lived in the school district or voting precinct for sixty days before the election. (February 10, 1939.)

Smith vs. Corum, 308 Ky. 397, 214 S. W. (2d) 599. Rule that a nominee of one political party has no right before the general election to question the certification of nomination of his opponent will not be extended to school board nominations which are made by petition and not by primary.

Evans vs. Hill, 314 Ky. 61, 234 S. W. (2d) 297. Where candidates for county board of education petitioned for a district other than that of his residence and mistake was not discovered until less than 45 days before election, candidate's name could not be placed on ballot in proper district.

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 order in which the names of the candidates are to be printed on the ballot shall be determined by lot. 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. (1962, c. 88, § 3; effective 14, 1962)

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.)

Roberts v. Byrd, 344 S. W. (2d) 378. 1961. Failure to rotate names of candidates for membership on board of education every 50 ballots, as required by statute, did not void election.

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 c. 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.)

Owen v. Brooks, 300 Ky. 743, 190 S. W. (2d) 326. The Corrupt Practices Act, KRS Ch. 123, is aplicable to county school board elections.

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 candidate re-

ceiving 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 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. Signature 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 Practices 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 works 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 percentage 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 saisfactory 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.)

Lone Jack Graded School Dist. v. Hendrickson, 304 Ky. 317, 200 S. W. (2d) 736. A board of education speaks only through its record of what was done when acting as a body in a corporate meeting.

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 per diem of ten 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 expenses incurred within the district or per diem of any member exceed two hundred dollars per annum. Members of boards of education may be reimbursed for actual and necessary expenditures incurred outside the district in the performance of their duties authorized by the board. 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. (1954, c. 220, § 1; 1962, c. 57, § 1; effective June 14, 1962)

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.

Carter et al. v. Taylor, Judge, et al., 231 S. W. (2d) 601. Where 150 county high school pupils had been cared for by contract with independent school board and by maintaining county high school with elementary grade pupils in inconvenient part of county, and county had existing bonded debt of $225,000 and board of education a debt of nearly $100,000, but more than enough money was available for servicing debts and

meeting obligations for new school, approval of plan by which board of education and fiscal court proposed to erect high school and issue $250,000 in bonds payable from rents received annually from board over 20 years period was not abuse of discretion. (July 6, 1950.)

(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.

Employment certificates for children, issuance of, KRS 339.300.

Teachers' tenure law, KRS 161.720 to 161.810.
(For other powers and duties of board see other chapters in this title.)

Clemons, et al. v. Bottom, et al., 262 S. W. (2d) 85. Where a school had been built at disputed location and its construction had been approved by Superintendent of Public Instruction, evidence was sufficient to establish that board's closing of school was in exercise of its good faith judgment and not an abuse of its discretion. (October 16, 1953.)

Lewis, et al. v. Morgan, et al., 252 S. W. (2d) 691. County board of education possesses not only the powers specifically conferred by statute, but also such implied powers as are reasonably inferable from the express powers and objects to be attained by creation of such board.

Statutory provisions requiring annual audit of school building funds by public accountant or accountant approved by the State Department of Education are not mere grants of power to county board of education to conduct audits, but create an absolute duty which boards are required to perform.

Statutory provisions requiring audits of school building funds, authorizing county boards of education to require audits of accounts and records of outgoing treasurers of school boards and providing for depositories of school funds and authorizing county boards of education to have audits made of records of depositories are merely additions to powers of county boards of education, and are not intended to limit or restrict inherent powers of boards to conduct their fiscal affairs. (November 7, 1952.)

Whitt, et al. v. Reed, et al., 239 S. W. (2d) 489. In action for injuries sustained by school pupil on school premises, petition alleging that defendants school superintendent, principal, maintenance supervisor and janitor were negligent in performance or nonperformace of their ministerial duties stated cause of action against them as individuals.

In action for injuries sustained by a school pupil on school premises, petition alleging that county board of education, members, sued as individual defendants, violated certain statutes in undertaking to authorize school building alterations, which reuslted in defective condition causing injuries, stated cause of action against them on ground that their failure to perform mandatory legal duties was a cause of injuries.

Public Officers, empowered to appoint their subordinates, are bound to exercise ordinary care in selecting proper persons for various positions, to superintend their conduct, and to assign them no tasks for which they are known by officers to be incompetent and in execution of which it is reasonable to infer that disastrous consequences will result. (April 24, 1951.)

Perry County Board of Education, et al. v. Deaton, et al., 311 Ky. 227, 223 S. W. (2d) 882. County boards of education are given broad discretion under statute in the selection of school sites and in the establishment of schools as they deem necessary for the promotion of education and the general welfare of the pupils. KRS 160.160, 160.290.

Where county board of education has obtained approval of superintendent of public instruction of its plans for a new building, courts will not interfere with proposed plans unless there is positive proof of fraud, collusion or a clear abuse of discretion. (October 18, 1949.)

Justice, et al. v. Clemons, et al., 308 Ky. 215 S. W. (2d) 992. Selection of school site is particularly for exercise of unfettered good faith judgment of county boards, and after approval by state superintendent of public instruction, courts will not interfere without positive proof of fraud, collusion, or clear abuse of discretion. December 17, 1948.)

Wilson, et al. v. Graves County Board of Education, et al., 307 Ky. 203, 210 S. W. (2d) 350. School Board not authorized to purchase single-handedly a lakeside tract in another county for joint benefit of public school pupils and 4-H Club members under statute authorizing a school district to join with city or county in providing recreation center or statute empowering school boards to promote health and welfare of pupils, as provided in Sections 97.010 and 160.290, KRS. (March 9, 1948.)

Fyfe v. Hardin Co. Bd. of Ed., 305 Ky. 589, 205 S. W. (2d) 165. Fiscal court must comply with request of county board of education for issuance of revenue bonds for school buildings under KRS 162.300, and cannot question need for buildings or use its own judgment as to whether bonds shall be issued.

Stokley v. Fleming County Board of Education, 305 Ky. 602, 205 S. W. (2d) 168. The county board of education, and not the fiscal court, has the authority to determine the revenue necessary to operate schools.

Board of Education of Berea v. Ballard, 299 Ky. 370, 185 S.W. (2d) 538. A board of education has authority to maintain an action in its own name, against delinquent school taxes and to enforce tax lien and is not required to await the ordinary process of distraint and sale by the tax collector.

Board of Education v. Society of Alumni of Louisville Male High School, 239 S.W. (2d) 931. Provision in deed by which the Louisville School Board agreed to hold the property for exclusive use of white male students was void as an attempted ceding away of governmental powers by the school board.

Pike County Board of Education v. Ford, 279 S. W. (2d) 24. A school board is vested with the authority to select public school sites, subject only to the limitation that it cannot act arbitrarily or beyond the pale of sound discretion.

Board of Education of Louisville v. Klein, teal., 303 Ky. 234, 197 S. W. (2d) 427. A football game is not a "nuisance per se." The operation of high school stadium for night high school football games was not a "nuisance per se."

Injunction against proposed night high school football games on assumption that they would constitute a nuisance per se or that they would become a nuisance per accident was erroneous.

A thing may or may not be a nuisance according to the manner in which it is used, the situation in which it is placed, or the time it has been carried on without complaint, when measured by the mind and taste of the average citizen. (November 8, 1946.)

Tracker 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 employes. (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 pricnipal-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 led 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. 515. 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 postion 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 corruptedly 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.

Holbrook v. Board of Education of Jefferson County, 300 S. W. (2d) 566, March 29, 1957. Where deed to county board of education provided that if a school house was erected on property and no school maintained in the school house before expiration of five years from the date of the deed, board should, upon demand, reconvey property without consideration but that if a school house was erected within period of five years and school maintained then the property should remain property of board in fee simple, the condition contemplated that as of a definite date the title should vest in the board in fee simple.

Where County Board of Education covenanted that property should be used solely as a school for white children, reasonable construction thereof was that it specified how school should be operated, rather than period of time school should be maintained.

Even if the deed to the County Board of Education were construed to require continued operation of school without time limitation, condition of forfeiture could not be read into deed.

Spalding v. Wooley, 309 S. W. (2d) 42. A formal court order gave the county board of education a choice of re-establishing a four-year high school in the eastern section of Marion County or establishing a centrally located county high school. The State Department of Education recommended that the county board of education enter into agreement with the city school system of Lebanon for joint operation of high school for the eastern part of the county and that another school should serve as a school for the western part of the county. The county board of education did not make either choice as directed by the formal court decision. Because of this indecision the Court of Appeals held that it was within the power of the circuit court to make a choice for the board by directing the establishment of a single centrally located high school.

It was the opinion of the State Board of Education that an adequate central county high school could not be constructed with the funds available.

The Court of Appeals said we believe that during the interim period pending construction of new school the children of the eastern part of the county would be best served by adopting the joint operating agreement for the Lebanon City School as proposed by the State Board of Education, or if for practical reasons that cannot be done during the balance of the present school year and for the following school year, then by continuing the present tuition agreement.

During the interim period excepting the remainder of the present school year, the county board of education will be enjoined from furnishing free transportation to, or paying tuition of, any high school student for attendance at any other school than the one most accessible to its place of residence.

Scott County Board of Education v. Pepper, 311 S. W. (2d) 189. Generally, conveyances of land for stated purposes, and for no other, do not create fees upon limitations or express provisions for reverter when such uses cease.

Where deed conveyed land to county board of education "for the purposes of a common school house, and for no other purpose," and a habendum clause reported the

quoted language, interest of board of education in the tract was not terminated when the county board of education ceased to use the land for common school house.

The quoted words for the deed to the Board are not the usual words of limitation such as "during," "as long as," "until," and the like which result in creating an estate upon limitation, automatically terminating at the time specified. Nor are they the usual words of condition such as "on condition that," "provided that," or "on the express conditions," which technically require an ejectment or re-entry to cause the title to revert

This court has constantly held to the general rule in deeds of this nature and refused to create a right of reversion where none was expressly stated or inescapably implied.

It is our conclusion that the board's interest in this tract was not terminated by its failure to use the land for school purposes.

Board of Education of Anderson County v. Calvert, 321 S. W. (2d) 413. In action by sellers of athletic equipment purchased by coach and high school principal for the athletic programs, with knowledge and acquiescence of the Board of Education which asserted supervisory control over the "activities fund" consisting of admissions to athletic contests, judgments allowing a recovery against the Board by providing for sequestration of property under control of the Board was proper, wherein, in its total effect, judgment directed the Board, as a trustee of the fund, to pay the claims involved out of the present "activities fund." If the claims were not then satisfied in full, any deficit was to be taken care of out of future accruals to the fund.

Hogan v. Glasscock, 324 S. W. (2d) 815. Despite absence of a specific statutory authority for school board to employ an attorney, members of county board of education had implied authority to employ an attorney to represent them in actions which were defended by them for the protection of the board's corporate action and decisions. Members had implied power to expend school funds for attorney's fees and court costs in defending the actions. The Legislature has authorized local boards of education to control and manage the affairs of school districts and to promote public education in such ways as it deems necessary and proper. The expenditure of funds involved in this case did not violate Section 186 of the Constitution. The board was impliedly authorized by the Legislature to make them in connection with the promotion of public education.

Boards are authorized to employ an accountant to make complete audit of school records. Although there is no specific statutory authorization for employing an accountant, the school board, like a municipality or any other governmental agency created by the Legislature, possesses not only the powers specifically conferred but also such implied powers as are reasonably inferred from the express powers and the objects to be attained by its creation.

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 insurance for school buses.** 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 buses, other motor vehicles, and mobile equipment 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 idnemnity 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 not to exceed the limits of the policy 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. (1960, c. 97; effective June 16, 1960)

Regulations as to school buses, KRS 189.540.

Age limit for drivers of school buses, KRS 186.600.

Transportation of school children, KRS 158.110, 158.115.

Bowen, et al. v. Meyer, et al., 255 S. W. (2d) 490. Under statute requiring boards of education to furnish transportation to elementary pupils who do not reside within reasonable walking distance of the school provided for them, the board was not required to furnish transportation for pupils who resided in a suburban area one to two and one-quarter miles from school and had school safety patrol to escort them across busy streets, along with county traffic patrol women, and to assist them in riding public buses, which pupils could ride to school for a five to six and one-half cent fare. (January 30, 1953.)

Pike County Board of Education, et al. v. Varney, et al., 253 S. W. (2d) 253. In action by nine year old bicycle rider for injuries received when his bicycle collided with school bus at intersection, evidence upon issues of bus driver's negligency and rider's contributory negligence was for jury. Jury gave judgment for $5,000. (December 5, 1952.)

Whitt, et al. v. Reed, et al., 239 S. W. (2d) 489. In action for injuries sustained by school pupil on school premises, petition alleging that defendants school superintendent, principal, maintenanec supervisor and janitor were negligent in performance or nonperformance of their ministerial duties stated cause of action against them as individuals.

In action for injuries sustained by a school pupil on school premises, petition alleging that county board of education, members, sued as individual defendants, violated certain statutes in undertaking to authorize school building alterations, which resulted in defective condition causing injuries, stated cause of action against them on ground that their failure to perform mandatory legal duties was a cause of injuries.

Public Officers, empowered to appoint their subordinates, are bound to exercise ordinary care in selecting proper persons for various positions, to superintend their conduct, and to assign them no tasks for which they are known by officers to be incompetent and in execution of which it is reasonable to infer that disastrous consequences will result. (April 24, 1951.)

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 employes (March 15, 1946.)

Kirkpatrick's Adm'x. (Bronaugh) v. Murray, et al., 294 Ky. 715. (Todd County) Members 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.)

Gilbert v. Harlan County Board of Education, 309 S. W. (2d) 771. No liability may be imposed upon individual members of school board when they perform negligently some official duty owing the public, but they may be held when they fail to perform some ministerial act.

Failure to carry pupil transportation insurance that is provided by school law under certain conditions may result in individual liability of board members. No such negligence was presented in this case. The cause of action stated in the amended complaint, which was filed against the county board of education more than a year following date of alleged injury, was barred by statute of limitations as provided by KRS 413.140(a).

Louisville Board of Insurance Agents v. Jefferson County Board of Education, 309 S.W. 2d 40, 1958. A school board may insure its property with mutual insurance companies under non assessable policies.

160.320 [4399-61] **Passways to School for Pupils; Provision for.** Any board of education may make provision for roads or pass-

ways 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 pupils, in attending school, to walk over the property of any person between the residence of the pupil and the school building.

School board to pay toll at private bridges and ferries for school children and school buses, KRS 280.320.

School children and school buses exempt from toll on state-owned bridges and ferries, KRS 180.320.

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 and School Supplies, 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, including indigent children in high schools or lower grades, 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. (1956, 4th ex. s., c. 2)

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.

Department of Revenue, reports to, KRS 131.030, 131.130, 131.140, 134.140.

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, § 13)

Certification of school employes, Ch. 161, KRS.

Leave of absence, KRS 161.770.

Reinstatement of former superintendent returning from Armed Forces, KRS 161.740.

Removal of superintendent for failure to cause instruction as to alcohol and narcotics, KRS 158.270.

Resignations, Removal and Vacancies, Ch. 63.

Superintendent eligible for continuing contract status under teachers' tenure law, KRS 161.721.

Termination of contract, KRS 161.780.

Treatment of superintendents when counties consolidate, KRS 67.300.

Bourbon County Board of Education, et al. v. Darnaby, 235 S. W. (2d) 66. Court held that no legal cause for removal of superintendent by board of education was shown.

The work "cause" in a statute authorizing the removal of officers for cause means legal cause, and not any cause which the Board authorized to make such removal may deem sufficient. It is implied that they cannot be removed at the mere will of those vested with power of removal, or without any cause. It must be a cause relating to, and affecting, the administration of the office, and must be restricted to something of a substantial nature directly affecting the rights and interests of the public. (December 15, 1950.)

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. (February 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.)

Bourbon County Board of Education, 314 Ky. 419, 235 S. W. (2d) 66. 1950. The word "cause" in a statute authorizing the removal of officers for cause means legal cause and not any cause which board authorized to make such removal may deem sufficient and it is implied that they cannot be removed at mere will of those vested with power of removal, or without any cause, and cause must relate to and affect administration of office, and must be restricted to something of a substantial nature directly affecting rights and interests of public.

1950. In action by discharged superintendent of schools against county board of education to have discharge order declared void, evidence sustained finding that no legal cause for removal by board of education of superintendent was shown. Ibid.

1950. In action by discharged superintendent of schools against county board of education to have discharge order declared void, evidence sustained finding that there was attempt by superintendent to dominate board of education or that superintendent threatened reprisals to daughter of board member because board member failed to vote as superintendent allegedly desired. Ibid.

1950. In action by discharged superintendent of schools against county board of education to have discharge order declared void, evidence sustained finding that superintendent did not pay bus drivers without checking their mileage thereby causing loss to taxpayers but that board overpaid driver and that superintendent discovered overpayment and gave board information that enabled board to recover overpayment. Ibid.

1950. In action by discharged superintendent of schools against county board of education to have discharge order declared void, evidence sustained finding that superintendent did not threaten a principal with reprisals unless he influenced the board member to resign from board. Ibid.

1950. In action by discharged superintendent of schools against county board of education to have order of discharge declared void, evidence sustained finding that a recording of board member's vote on subject before board, in minutes of board was a harmless error which resulted in no harm to any of the parties involved. Ibid.

1950. In action by discharged superintendent of schools against county board of education to have order of board discharging superintendent declared void, evidence sustained finding that superintendent did not purchase supplies or make contracts without authorization of board. Ibid.

1950. In action by discharged superintendent of schools against county board of education to have discharge order of board declared void, evidence sustained finding that letter written by superintendent to state department of public instruction with reference to a member of board was written without malice or intention of doing anything except guarding good name of school without harm to any individual. Ibid.

Board of Education of Graves County v. DeWeese, 343 S. W. (2) 598. 1961. Superintedent of schools was not an "officer" within constitutional sections prohibiting change in compensation of officers after election or appointment and establishing maximum limit on compensation of public officers, $7,200 statutory limit imposed by statute on officers and employes of local government units did not apply to superintendent and addition of $3,000 to his compensation for services as secretary of board of education was within authority of board.

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, § 13)

Assistant superintendent is under teachers' tenure law, KRS 161.720.

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

Richardson v. Bell County Bd. of Ed., 296 Ky. 520, 177 S. W. (2d) 871. The position of assistant county school superintendent whose duties are purely administrative is incompatible with position of teacher in public schools, so that high school teacher who continued to act as such under previous employment after appointment as assistant superintendent failed to enter into performance of duties as assistant superintendent and was not entitled to salary as such.

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.

Conferences of public school officials, superintendent to attend, KRS 156.190.

County children's bureau, superintendent to appoint members of, KRS 200.140.

Reports of financial matters to State Board of Education, KRS 157.060.

Bourbon County Board of Education, et al. v. Darnaby, 235 S. W. (2d) 66. Court held that no legal cause for removal of superintendent by board of education was shown.

The work "cause" in a statute authorizing the removal of officers for cause means legal cause, and not any cause which the Board authorized to make such removal may deem sufficient. It is implied that they cannot be removed at the mere will of those vested with power of removal, or without any cause. It must be a cause relating to, and affecting, the administration of the office, and must be restricted to something of a substantial nature directly affecting the rights and interests of the public. (December 15, 1950.)

Duff v. Chaney, et al., 291 Ky. 308. A teacher who is legally qualified for a position and who has been dully 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.)

Reynolds v. Bd. of Ed. of Lexington, 311 Ky. 458, 224 S. W. (2d) 442. Superintendent and assistant superintendent of city schools of Lexington were public officers for the purposes of Section 246 of the Kentucky Constitution.

Bourbon County Board of Education v. Darnaby, 314 Ky. 419, 235 S. W. (2d) 66. 1950. In action by discharged superintendent of schools against county board of education to have order of board discharging superintendent declared void, evidence sustained finding that superintendent did not purchase supplies or make contracts without authorization of board.

160.380 [4399-34] **School Employes; Superintendent to Recommend; Qualifications; When Employed.** Except as provided in KRS 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, § 13; 1958, c. 126, § 18)

Deduction from salaries for teachers' retirement fund, KRS 161.560, 161.570.

Civil service for noninstructional employes of board of education of second-class city, KRS 161.821 to 161.837.

Retirement plan for noninstructional school employes in independent district embracing a first-class city, KRS 161.841.

Teachers' tenure law, KRS 161.720 to 161.810.

School employes, provisions as to, Ch. 161. KRS.

Board of Education of London Independent School District v. Miller, 209 S. W. (2d) 626. The provisions of KRS 160.380, making possible an appeal by a local board of education from the recommendation of the superintendent, were designed to provide an orderly and speedy process for disposing of good faith school disputes. Local board may not postpone approval of a superintendent's recommendatoins without seasonally showing legal cause for disapproval. When a local board refuses approval of a superintendent's recommendations without legal justification and the party aggrieved has resorted to the courts for relief, the provision for appeal to the State Board of Education is no longer applicable.

Marshall, et al. v. Walters, 265 S. W. (2d) 787. In absence of specification in teachers' contract specifying the school and the class of position in which he is to be employed, school authorities have authority to transfer teacher from one school or class of position to another. (March 5, 1954.)

Marshall, Superintendent, et al. v. Conley, 258 S. W. (2d) 911. Board of education has authority to transfer teachers from school to school or from position to position in the same school, even though they hold continuing contracts.

Status relating to seniority rights of school rights deals with seniority only as it affects employment and not as it affects position.

Teacher transferred to an elementary school from a high school position and who refused to accept the elementary position admittedly breached any kind of contract which he might claim for himself–

The court would not determine what kind of contract, if any, he should have been given. (June 5, 1953.)

Welch v. Board of Education of Magoffin County, 247 S. W. (2d) 536. Principal could not claim position as teacher when refused a principal's job because he declined the position and sought employment elsewhere.

Annual salary of $3200 paid in monthly installments means annual salary, and ten months work means pay for only ten months or an allocate part of the $3200. (March 28, 1952.)

Reed, et al. v. Greene, et al., 243 S. W. (2d) 892. Janitors, bus drivers and mechanics are "public school employes" within provisions of KRS 160.380. (November 16, 1951.)

Board of Education of Bath County, et al. v. Hogge, 239 S. W. (2d) 459. Provision of contract that County Board of Education had right to transfer school principal from one position to another or from one school to another from time time would prevail unless it contravenes statute.

When principal's continuing contract was suspended in March and was not reinstated prior to July 6 meeting of County Board of Education, and suspension was based on order discontinuing school which was rescinded in May, and outgoing superintendent recommended that contract be reinstated at June meeting, and motion in June to reinstate failed for lack of second, and board at July meeting acted on assumption that principal was entitled to be employed for coming year, Board could not base any right to reduce principal's salary for the coming year upon mere absence of formal order reinstating the contract. (May 8, 1951.)

Smith v. Beverly et al., 36 S. W. (2d) 914. Act of members of school board in refusing to appoint one who had been recommended as principal of high school by superintendent, and employing substitute principals and paying them school funds, rendered members of school board liable as individuals, jointly and severally, and rendered substitute principals also liable individually for money had and received by them as illegal employes, if they had knowledge of nomination of nominee. (February 16, 1951.)

Bourbon County Board of Education et al v. Darnaby, 235 S. W. (2d) 66. Court held that no legal cause for removal of superintendent by board of education was shown.

The word "cause" in a statute authorizing the removal of officers for cause means legal cause, and not any cause which the Board authorized to make such removal may deem sufficient. It is implied that they cannot be removed at the mere will of those vested with power of removal, or without any cause. It must be a cause relating to, and affecting, the administration of the office, and must be restricted to something of a substantial nature directly affecting the rights and interests of the public. (December 15, 1950.)

Williamson v. Cassady, et al., 311 Ky. 666. Under Teachers' Retirement and Tenure Act, board of education on recommendation of county superintendent of schools had authority to transfer principal of a high school to a teaching position in another high school although it did not have authority to reduce to teacher's salary. (November 18, 1949.)

Beverley, et al. v. Highfield, 307 Ky. 179, 209 S. W. (2d) 739. Appointment of high school principal by County Board without recommendation of Superintendent was void. Failure of Superintendent of Schools to object to appointment without her recommendation of principal under limited contract during War did not stop Superintendent from objecting to validity of appointment, where it was being used in an attempt to perpetuate appointee in such office. (March 9, 1948.)

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 employes. (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 employes 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 named 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 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 application 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 qualification 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 referred 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 employe 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. (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. (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. 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.)

Grover 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 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.)

Lewis v. Morgan, 252 S. W. (2d) 691. A certified public accountant hired by county board of education to conduct general audit of school records acts as independent contractor, and is not a public school employe within statutory provisions that all public school employes shall be employed only upon recommendation of county school superintendent.

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.

Reynolds v. Board of Education of Lexington, 311 Ky. 458, 224 S.W. (2d) 442. Superintendent and assistant superintendent of city schools of Lexington were public officers for purpose of Section 246 of the Kentucky Constitution.

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.

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, by Whom Levied; Amount of Levy; When Levy to be Made; Property Subject to Levy; Furnishing of Assessment Valuations.** (1) All school taxes shall be levied by the fiscal court of each county except in independent school districts embraced by cities of the first four classes. In such districts the tax shall be levied by the governing body of the city. The tax levying authority shall levy such ad valorem tax and such poll tax as specified by the district board of education within the limits prescribed in KRS 160.475, which will obtain for the school district the amount of money needed as shown in such district's general school budget submitted under the provisions of KRS 160.470.

(2) The tax levying authority shall make an annual school levy not later than July 1. The school levy shall not be made until the general school budget has been received by the tax levying authority. The failure of the authority to make the levy by 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.

If the school levy is to be made upon the city assessment as authorized in subsection (1), the clerk of such city shall furnish to the school district or districts which the city embraces, the assessed valuation of property subject to local taxation in the school district, as determined by its tax assessor. If the school levy is to be made upon the county assessment the county clerk shall furnish to the proper school district or districts the assessed valuation of property subject to local taxation in such district or districts, as certified by the Kentucky Tax Commission. (1949, ex. s., c. 7, § 1; 1950, c. 71)

Boundaries of school district to be furnished to railroad or bridge company to enable it to determine tax due, KRS 136.190, 136.990.

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 funds; KRS 273.130.

Property subject to local taxation, KRS 132.150, 132.190, 132.200, 136.180, 136.200,

Municipal electric plant to pay sum equivalent to tax based on book value, KRS 96.820.

Municipal light, water or gas plant may pay tax equivalent to school district, KRS 96.536.

Penalties under child labor law to be paid to county school fund, KRS 363.990.

Proceeds from sale of confiscated deadly weapons go to school fund, KRS 435.235.

Tax rate not to be fixed until assessment is certified by Tax Commission to county clerk, KRS 133.185.

Board of Education of Louisville v. Citizens Fidelity Bank & Trust Co. et al., 263 S. W. (2d) 112. Statute authorizing school district by vote of the people to determine whether special school building tax rate should be levied at rate of not less than five cents nor more than fifty cents on each $100 valuation of property subject to local taxation, was merely an enabling statute for statute authorizing annual tax on bank stock for school purposes not to exceed forty cents on $100 valuation, and did not authorize an increase of the forty cent rate.

Where an act treats a subject in general terms and contains no provisions which contradict or conflict with provisions of a prior statute having particular and specific terms, new act must be regarded as not having intended to affect existing statute, and both will be construed together. (December 18, 1953.)

Board of Education of Fayette County et al. v. Board of Education of Lexington Independent School District et al., 250 S. W. (2d) 1017. Favorable vote on question of levying special school building tax in county school district merely granted authority to taxing power to levy tax in addition to maximum school levy provided by statute, and did not impose a tax in future.

Favorable vote on question of levying special school building tax in county school district to pay rentals for school buildings to be erected and financed by fiscal court by issuing revenue bonds did not create an indebtedness and such tax was leviable each year, only upon property within the district at the time annual levy was made, and property transferred to city school district, after special tax was voted, was not liable for special tax levied after transfer.

City school district to which territory was transferred from county school district was not liable for any part of such revenue bonds under statute providing for assumption of proportional part of indebtedness, since revenue bonds did not constitute an indebtedness of county school district. (June 20, 1952.)

Fyfe, et al. v. Hardin County Board of Education, 305 Ky. 589, 205 S. W. (2d) 165. Where Board of Education of county concluded that it was necessary to enlarge and improve school facilities of county . . . and board requested Fiscal Court to cooperate with it in issuance of school revenue bonds, court acted without authority in refusing to issue bonds merely because court disagreed with board as to the need for new school buildings. (October 17, 1947.)

Stokely, County Judge, et al. v. Fleming County Board of Education, etc., 305 Ky. 602, 205 S. W. (2d) 168. A board of education has exclusive right to determine within lawful limits the amount necessary to be expended and items for which it shall be expended in operation of schools, and governing authorities of tax levying district must levy a tax within limits prescribed by Constitution and statutes sufficient to raise the

revenue required under budget filed by board, in absence of sharing of illegal expenditure, computation unlawfully arrived at, or bad faith of board.

Inaccuracies in estimated items in county school budget due to subsequent developments did not justify fiscal court in refusing to levy taxes required by budget in absence of showing that budget was tainted with illegality or bad faith. (October 17, 1947.)

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 than 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. (KRS 68.110, 68.990, 92.360, 92.990, Sec. 157 Const.) (June 19, 1931.)

Monticello Electric Plant Board v. Board of Education of Wayne County, 310 S. W. (2d) 272. The assessment of franchise taxes for full year was properly made against the electric power company on January 1, 1954, notwithstanding existence of a contract executed in 1953 whereby the municipal electric plant board which actually acquired properties of an electric power company on January 20, 1954, was required to reimburse electric power company for all of such franchise taxes except for the first twenty days of the year.

160.470 [4399-40] **School Budgets.** (1) Each district board of education shall prepare a general school budget on forms prescribed and furnished by the State Board of Education, 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, the estimated total amount that will be received from the common school fund and other sources, the assessed valuation of property subject to local taxation in the school district furnished as provided in subsection (3) of KRS 160.460, an estimate made by the Department of Revenue of franchise assessments and assessments of other property in the school district not furnished under the provisions of subsection (3) of KRS 160.460, and the amount that will be needed to be raised by local taxation, including the rate of levy necessary to raise such an amount. Three copies of the budget shall be filed with the clerk of the tax levying authority of the district within three days after the school district has received its assessment data. The clerk shall present the budget to the proper tax levying authority when the authority convenes to fix its school levy. The failure of the district board of education to furnish the budget within the time prescribed shall not invalidate any levy

made thereafter. Within three days after the tax levying authority has fixed the tax rate, the district board of education shall forward two copies of the budget to the State Board of Education for its approval or disapproval. The budget shall be disapproved if it is financially unsound or fails to provide for (a) payment of maturing principal of and interest on any outstanding voted school improvement bonds of the school district authorized and issued pursuant to KRS 162.080 and 162.090, with the written approval of the State Board of Education, or (b) payment of rentals in connection with any outstanding school building revenue bonds issued for the benefit of the independent school district or county school district, as the case may be, by the appropriate city or county as authorized and provided under the provisions of KRS 162.120 to 162.300, with the written approval of the State Board of Education, or fails to comply with the law; and the State Board of Education shall state its reason, or reasons, for such disapproval. In such event the district board of education shall amend its budget to obviate the reasons for disapproval. If the budget as amended specifies a tax levy different from that levied under the disapproval budget, the tax levying authority shall amend its levy in accordance therewith, so that the levy as amended shall comply with the provisions of subsection (1) of KRS 160.460. No general school budget shall become effective until approved by the State Board of Education.

(2) Each district board of education shall, if required by the State Board of Education, prepare and submit to it not later than September 15, 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 school budget previously prepared. (1956, c. 177)

Bell, et al. v. Board of Education of Shelby County, 308 Ky. 848, 215 S. W. (2d) 1007. Undertaking by county board of education to erect a new high school building and issue revenue bonds to finance the project without submitting revised financial program in the form of an amended or supplemental budget to State Board of Education and obtaining its approval thereof was without legal authority and subject to injunction. (December 17, 1948.)

Stokley, County Judge, et al. v. Fleming County Board of Education, etc., 305 Ky. 602, 205 S. W. (2d) 168. A board of education has exclusive right to determine within lawful limits the amount necessary to be expended and items for which it shall be expended in operation of schools, and governing authorities of tax levying district must levy a tax within limits prescribed by Constitution and statutes sufficient to raise the revenue required under budget filed by board, in absence of sharing of illegal expenditure, computation unlawfully arrived at, or bad faith of board.

Inaccuracies in estimated items in county school budget due to subsequent developments did not justify fiscal court in refusing to levy taxes required by budget in absence of showing that budget was tainted with illegality or bad faith. (October 17, 1947.)

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, fical 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.)

Bell v. Board of Education of Barren County School District, 343 S. W. (2d) 804. 1961. Floating indebtedness, necessarily incurred by county board of education, not in excess of constitutional debt limitation, for legitimate school purposes, because reasonably anticipated franchise tax collections had been greatly reduced by judicial invalidation of method of computing assessed valuation of gas pipeline franchises, constituted valid obligation of county school district which could be funded by bond issue.

160.475 Ad Valorem Tax for School Purpose, 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 support of municipal university, KRS 165.030.

Sinking fund purposes, tax levy for, KRS 162.090.

Electric and water plant of third-class city may pay tax equivalent to school district, KRS 96.179.

Limits on levies for school purposes on bank stock, KRS 136.270.

Limits on levies for school purposes on distilled spirits, KRS 132.150.

Municipal light, water or gas plant may pay tax equivalent to school district, KRS 96.536.

Persons exempt from poll tax, KRS 142.020.

Rate of school tax on railroad bridge, KRS 136.180, 136.200.

Tax for junior college in county containing city of fourth class, KRS 165.280.

Board of Education of Louisville v. Citizens Fidelity Bank & Trust Co. et al., 263

S. W. (2d) 112. Statute authorizing school district by vote of the people to determine whether special school building tax rate should be levied at rate of not less than five cents nor more than fifty cents on each $100 valuation of property subject to local taxation, was merely an enabling statute for statute authorizing annual tax on bank stock for school purposes not to exceed forty cents on $100 valuaiton, and did not authorize an increase of the forty cent rate.

Where an act treats a subject in general terms and contains no provisions which contradict or conflict with provisions of a prior statute having particular and specific terms, new act must be regarded as not having intended to affect existing statute, and both will be construed together. (December 18, 1953.)

Board of Education of Fayette County et al. v. Board of Education of Lexington Independent School District et al., 250 S. W. (2d) 1017. Favorable vote on question of levying special school building tax in county school district merely granted authority to taxing power to levy tax in addition to maximum school levy provided by statute, and did not impose tax in future.

Favorable vote on question of levying special school building tax in county school district to pay rentals for school buildings to be erected and financed by fiscal court by issuing revenue bonds did not create an indebtedness and such tax was leviable each year, only upon property within the district at the time annual levy was made, and property transferred to city school district after special tax was voted, was not liable for special tax levied after transfer.

City school district to which territory was transferred from county school district was not liable for any part of such revenue bonds under statute providing for assumption of proportional part of indebtedness, since revenue bonds did not constitute an indebtedness of county school district. (June 20, 1952.)

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's 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.

Bell v. Board of Education of Barren County Sch. Dist., 343 S. W. (2d) 804. 1961. Annual special tax, in excess of maximum regular ad valorem tax levy authorized by statute, could be levied to amortize principal and interest of funding bonds validly issued by county school district, where maximum regular levy was insufficient.

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 depository selected by the board of education, 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))

Board of Education of Louisville v. Williams, 256 S. W. (2d) 29. A high school stadium is not a "school building" within statute setting up special taxes and special bond issues for school buildings, precluding use of funds raised thereby for repair of stadium. (March 13, 1953.)

Lewis et al. v. Morgan et al., 252 S. W. (2d) 691. County board of education possesses not only the powers specifically conferred by statute, but also such implied powers as are reasonably inferable from the express powers and objects to be attained by creation of such board.

Statutory provisions requiring annual audit of school building funds by public accountant or accountant approved by the State Department of Education are not mere grants of power to county board of education to conduct audits, but create an absolute duty which boards are required to perform.

Statutory provisions requiring audits of school building funds, authorizing county boards of education to require audits of accounts and records of outgoing treasurers of school boards and providing for depositories of school funds and authorizing county boards of education to have audits made of records of depositories are merely additions to powers of county boards of education, and are not intended to limit or restrict inherent powers of boards to conduct their fiscal affairs. (November 7, 1952.)

Board of Education of Fayette County et al. v. Board of Education of Lexington Independent School District et al., 250 S. W. (2d) 1017. Favorable vote on question of levying special school building tax in county school district merely granted authority to taxing power to levy tax in addition to maximum school levy provided by statute, and did not impose a tax in future.

Favorable vote on question of levying special school building tax in county school district to pay rentals for school buildings to be erected and financed by fiscal court by issuing revenue bonds did not create an indebtedness and such tax was leviable each year, only upon property within the district at the time annual levy was made, and property transferred to city school district, after special tax was voted, was not liable for special tax levied after transfer.

City school district to which territory was transferred from county school district was not liable for any part of such revenue bonds under statute providing for assumption of proportional part of indebtedness, since revenue bonds did not constitute an indebtedness of county school district. (June 20, 1952.)

160.477 School Building Fund, Voted Tax for; Other Resources of Fund; Expenditures; Audits. (1) (a) Upon request of the board

of education of any school district, the tax levying authority of the district shall adopt an ordinance or resolution submitting to the qualified voters of the district, the question as to whether a special school building tax rate of not less than five cents nor more than fifty cents as requested by the board shall be levied on each one hundred dollars of property subject to local taxation. This tax levy shall be in addition to the maximum school tax levy provided by KRS 160.475. The income from the tax shall be used for the purchase or lease of school sites and buildings, for the erection and complete equipping of new school buildings, for the major alteration, enlargement and complete equipping of existing buildings, for the purpose of retiring, directly or through rental payments, school revenue bonds issued for such school building improvements, and for the purpose of financing any program for the acquisition, improvement, or building of schools. The question shall be so framed that the voter may by his vote answer "For" or "Against."

Ranier v. Board of Education of Prestonsburg Independent School District, 273 S. W. (2d) 577. A school auditorium-gymnasium was a school building within the meaning of KRS 160.477 and 162.120 to 162.300.

(b) The election shall be held at a time fixed in the ordinance or resolution, not less than fifteen or more than thirty days from the time the request 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.

Board of Education of Louisville et al. v. City of Louisville et al., 258 S. W. (2d) 707. Statute making school bonds obligation of city school district embraces city, cannot be applied where city boundaries extend beyond boundaries of school district; therefore, bonds are obligations of school district, only property within district may be taxed, and only voters within district may vote on question of issuance of bonds.

Where city school district does not embrace all of city, expenses of holding election on question of issuance of bonds for school purposes must be borne by fiscal court. (May 29, 1953.)

(c) If a majority of those voting on the question favor the special school building tax levy, the tax levying authority shall when the next tax rate for the district is fixed levy the special rate specified by the board of education of the school district for the school building fund in addition to the levy provided by KRS 160.475. (Subsection (1) amended, 1952, c. 77, § 1)

Turner et al. v. Board of Education of Scottsville Independent School District et al., 266 S. W. (2d) 321. The test as to whether a public question is submitted for a vote in a proper form is whether the voters are afforded an opportunity to express and do fairly express their will.

Ballot which contained question "are you for or against levying" each year for 20 years a special school building fund tax was not misleading, when there was wide publicity of the election and advertisements of advocates of the tax made it clear that a "yes" vote was one which favored the tax. (March 26, 1954.)

(2) There may be included, in the maximum levy provided for in KRS 160.475, a special levy for building fund purposes as authorized by KRS 160.476, which shall be in addition to the levy authorized by vote as provided in subsection (1) of this section.

(3) 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 allow any balances remaining in the general fund over and above the amount necessary for discharging obligations for the fiscal year in full.

(4) The special fund provided for in subsection (1) of this section shall be kept in a separate account designated as "Special Voted School Building Fund." The fund shall be kept in the depository selected by the board of education, or invested in bonds of the United States, of this state, or of any county or municipality in this state, provided however, that such investment shall be approved by the State Board of Education.

(5) All expenditures from such fund shall be made solely for the purposes enumerated in this section 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. (1950, c. 142)

Ewing et al. v. Peak et al., 266 S. W. (2d) 300. Where school board and fiscal court issued resolutions informing voters that money derived from special school building tax was to be used to acquire a site for and constructing and equipping of school building adequate to accommodate the pupil population in the locality in grades 1 to 12, the resolution did not amount to a contract by school board to conduct high school in new building, and subsequent decision to use new building for grades 1 to 8 was within school board's powers and did not constitute diversion of voted money.

A school board cannot by contract divest itself or its successors of discretionary powers granted it by the Legislature.

None of the money can be spent for operational or maintenance purpose in connection with any school building. (January 29, 1954.)

Board of Education of Louisville v. Citizens Fidelity Bank & Trust Co. et al., 263 S. W. (2d) 112. Statute authorizing school district by vote of the people to determine whether special school building tax rate should be levied at rate of not less than five cents nor more than fifty cents on each $100 valuation of property subject to local taxation, was merely an enabling statute for statute authorizing annual tax on bank stock for school purposes not to exceed forty cents on $100 valuation, and did not authorize an increase of the forty cent rate.

Where an act treats a subject in general terms and contains no provisions which contradict or conflict with provisions of a prior statute having particular and specific

terms, new act must be regarded as not having intended to affect existing statute, and both will be construed together. (December 18, 1953.)

Lewis et al. v. Morgan et al., 252 S. W. (2d) 691. County board of education possesses not only the powers specifically conferred by statute, but also such implied powers as are reasonably inferable from the express powers and objects to be attained by creation of such board.

Statutory provisions requiring annual audit of school building funds by public accountant or accountant approved by the State Department of Education are not mere grants of power to county board of education to conduct audits, but create an absolute duty which boards are required to perform.

Statutory provisions requiring audits of school building funds, authorizing county boards of education to require audits of accounts and records of outgoing treasurers of school boards and providing for depositories of school funds and authorizing county boards of education to have audits made of records of depositories are merely additions to powers of county boards of education, and are not intended to limit or restrict inherent powers of boards to conduct their fiscal affairs. (November 7, 1952.)

Board of Education of Fayette County et al. v. Board of Education of Lexington Independent School District et al., 250 S. W. (2d) 1017. Favorable vote on question of levying special school building tax in county school district merely granted authority to taxing power to levy tax in addition to maximum school levy provided by statute, and did not impose a tax in future.

Favorable vote on question of levying special school building tax in county school district to pay rentals for school buildings to be erected and financed by fiscal court by issuing revenue bonds did not create an indebtedness and such tax was leviable each year, only upon property within the district at the time annual levy was made, and property transferred to city school district after special tax was voted, was not liable for special tax levied after transfer.

City school district to which territory was transferred from county school district was not liable for any part or such revenue bonds under statute providing for assumption of proportional part of indebtedness, since revenue bonds did not constitute an indebtedness of county school district. (June 20, 1952.)

Fendley et al. v. Board of Education of Oldham County School District, 240 S. W. (2d) 837. Question, which was submitted to voters and affirmatively answered, relative to levying of special school building tax rate of not less than five cents nor more than thirty-nine cents on each $100 of property valuation, was not improper because it failed to specify particular rate which school board was authorized to fix annually.

It was not invalid for failure to specify duration of newly established tax rate, and levy of tax was not limited to 30-year liquidation period of revenue bonds which might have been issued.

It did not limit newly established tax rate to any particular project and put voters on notice that they were asked to approve such increase as might be necessary to carry out effective school plans for indefinite number of years. (June 22, 1951.)

Folks et al. v. Barren County et al., 232 S. W. (2d) 1010. Board of education was authorized by Section 160.477 KRS to set a tax rate between five and fifty cents for purposes of raising funds to be used for school building purposes. The fifteen to thirty days mentioned in the Statutes is directory and the fact that thirty-one days elapsed before the election was substantial compliance therewith and was sufficient notice. The publication of the notice of the election twice in two weekly newspapers, once on July 20 and once on August 3, was reasonable notice. (September 29, 1950.)

Stagg v. Board of Education of Danville Independent School District, 303 S. W. (2d) 313. Election extending for an additional five years the levy of school building fund tax previousiy approved for a period of twenty-five years in an election held seven years previously, did not violate any policy against frequency of elections.

Where order of fiscal court calling for an election respecting extension of annual school building fund tax directed notice to be published in local newspaper four times on designated dates and to be posted as designated public places, but while official notice was only published twice and not posted, large advertisements were carried in the newspaper for six consecutive days and handbills were distributed throughout the district, lack of strict compliance with notice requirements was not such as to invalidate the election.

Cummings v. Pendleton County Board of Education, 305 S. W. (2d) 314. Where fiscal court order authorizing election for special school building fund tax had been read and signed in the presence of members of the fiscal court, the fact that the judge had not signed, until after the election, the order book in which the fiscal court orders were entered, did not invalidate the proceedings.

Howell v. Haney, 330 S. W. (2d) 941. At a special election held on March 28, 1959, the voters of LaRue County approved an additional tax levy for certain school purposes in LaRue County School District.

Thereafter, action was instituted for the dual purpose of obtaining a judicial recount of the ballots and to contest the legality of the election on several grounds. The appellees (defendants) filed a motion to dismiss the action, asserting that the statute authorizing a contest of an election on a public question, KRS 122.140, requires that the action be maintained "against the county, city, or district in which the election was

held," and that neither the county of LaRue nor the LaRue County School District had been made parties to the suit. The motion also questioned the court's jurisdiction on the ground that the "petition" seeking the contest was not posted as required by KRS 122.140. The court was of the opinion that both these grounds were meritorious. Thereupon, the court sustained the motion and dismissed the action.

Boards of education are bodies corporate with power to sue and be sued in their corporate name. Where county voters approved an additional tax levy for certain school purposes in county school district, County Board of Education and county were indispensable parties to action for judicial recount of ballots and to contest the legality of election.

New and additional grounds of contest may not be added by amendment after time for filing preceding contesting election has expired.

Where original petition in election contest was defective because all necessary parties were not made defendants, defect could not be cured by amended petition naming all necessary parties where amended petition was filed after time for filing petition has expired, since to allow adding a new party would be asserting the contest against such party for first time. KRS 122.140, 160.160 and 160.477.

Durr v. Washington County, 339 S. W. (2d) 444. 1960. Complaint which simply alleged that votes were miscounted, thereby affecting the result of the election, stated a cause of action for a recount in school tax election.

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)

Method of determining fee, KRS 134.290 and 134.310.

County clerk to calculate taxes due school districts, KRS 132.550.

Board of Education of Mason County et al. v. Collins, 259 S. W. (2d) 17. Where board of education contended that reasonable fee for collection of school taxes in amount of $201,210.40 by sheriff should not exceed $800, and sheriff withheld fee of $8,048.40, and court determined that sheriff was entitled to $3,782.75, as compensation, and that sheriff was liable for interest on amount in excess of commission allowed him, court properly divided the costs between board and sheriff. (June 19, 1953.)

Board of Education of Lawrence County v. Workman, Sheriff, 256 S. W. (2d) 528. Proof in action for declaratory judgment determining amount of sheriff's compensation for collecting school taxes was not adequate to enable final and correct decision to be made, and case would be remanded for taking of further proof designed to show what portion of time of sheriff and his deputies was devoted to tax collection work. (March 27, 1953.)

Board of Education of Grant County v. Ballard, Sheriff, 249 S. W. (2d) 956. Each case involving cost estimates for collection of school taxes must be decided upon particular facts involved.

Under the facts, allowance fixing reasonable cost of collection of school taxes at 2% of school taxes collected was proper. (June 20, 1952.)

Dave, Sheriff, v. Board of Education of Hickman City Schools, 249 S. W. (2d) 954. School taxes must pay fair share of total expenses incurred in maintaining sheriff's office, but one year's taxes should not be charged with expenses for other years, and therefore the proper charge for such services would be based upon a year's cost calculation rather than basis of eight months, the time ordinarily elapsing between date sheriff received tax bills and time he made his final settlement with state, and rather than eighteen month period used by sheriff, and cost as thus calculated totaled 2.9% of total taxes collected.

In computing sheriff's allowance for school taxes, the sheriff's deputies' basic salaries would be taken on twelve month basis, interest would be disallowed, and sheriff would be allowed $200 a month on a yearly basis.

Allocations of cost of collecting school taxes on basis of one-third against boards of education and two-thirds against sheriff was fair. (June 20, 1952.)

Wells, Sheriff, v. Board of Education of Menifee County et al., 244 S. W. (2d) 160. Where sheriff did work of collecting school taxes himself and did not employ a deputy, proper basis for determining his compensation was reasonable value of time required to be expended by the sheriff.

The integrity, judgment and responsibility required of sheriff, as elected public officer, are elements to be considered in determining value of his services, and such value should not be limited to the sum for which a competent clerk could have been hired.

Approximately $1100 computed on basis of $250 per month, was proper compensation for sheriff's services for collecting school taxes of $39,812 in relatively poor county.

Board of Education of Madison County et al. v. Wagers, Sheriff-Tax Collector, et al., 239 S. W. (2d) 48. Under the constitutional provisions, the school fund which may not be diverted from other than school purposes is only the net amount for school taxes produced after deducting the fee chargeable to its collection as long as the fee reasonably approximates the cost of making the collection, but if the fee percentage produces a substantial sum applied to a use other than paying the reasonable cost of collections then a part of the school tax is appropriated to something other than "school purposes" in violation of the Constitution. (February 16, 1951.)

Stokley, County Judge, et al. v. Fleming County Board of Education, etc., 305 Ky. 602, 205 S. W. (2d) 168. A board of education has exclusive right to determine within lawful limits the amount necessary to be expended and items for which it shall be expended in operation of schools, and governing authorities of tax levying district must levy a tax within limits prescribed by Constitution and statutes sufficient to raise the revenue required under budget filed by board, in absence of sharing of illegal expenditure, computation unlawfully arrived at, or bad faith of board.

Inaccuracies in estimated items in county school budget due to subsequent developments did not justify fiscal court in refusing to levy taxes required by budget in absence of showing that budget was tainted with illegality or bad faith. (October 17, 1947.)

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.)

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.)

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.)

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.)

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.

Board of Education of Mason County et al. v. Collins, 259 S. W. (2d) 17. Where board of education contended that reasonable fee for collection of school taxes in amount of $201,210.40 by sheriff should not exceed $800, and sheriff withheld fee of $8,048.40,

and court determined that sheriff was entitled to $3,782.75, as compensation, and that sheriff was liable for interest on amount in excess of commission allowed him, court properly divided the costs between board and sheriff. (June 19, 1953.)

Grant County Board of Education v. Foree, 303 S. W. (2d) 291. In action for declaratory judgment as to fee which the sheriff was entitled to receive for collecting county school taxes for 1954, it was proper to value the sheriff's own services on the basis of a rate of $7,200 a year. The deputy sheriff was entitled to receive for his services in this case a rate of $3,100 a year which was the practical net compensation, rather than at gross of $3,600.

While we find the fee allowed to be proper, an error occurred in the refusal of the courts to charge the sheriff with the interest on the amount withheld by him in excess of the allowed fee. The sheriff retained 4 per cent of the amount collected. At the regular settlement time, in April, 1955, he offered to pay to the board the excess over 3 per cent if the board would settle for that amount. The board declined the conditional offer. The sheriff had no right to retain the excess amount, and under the ruling Board of Education of Mason County v. Collins, 259, S. W. (2d) 17, he should have been charged with interest from April, 1955.

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.)

Board of Education of Berea v. Ballard, 299 Ky. 370, 185 S. W. (2d) 538. A board of education has authority to maintain an action in its own name, against delinquent school taxes and to enforce tax lien and is not required to await the ordinary process of distraint and sale by the tax collector.

Hopson v. Board of Education of Louisville, 280, S. W. (2d) 489. Title to 214, acts of 1954, relating to public school education, adequately expressed the general subject, gave notice that the act contained provisions concerning establishment, operation and financing of foundation program, and adequately expressed the provisions of statute permitting increase in school rates.

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. (1954, c. 214, § 16; effective July 1, 1954)

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.

Investment of school funds, KRS 386.050.

Board of Education of Fayette County et al. v. Board of Education of Lexington Independent School District et al., 250 S. W. (2d) 1017. Favorable vote on question of levying special school building tax in county school district merely granted authority to taxing power to levy tax in addition to maximum school levy provided by statute, and did not impose a tax in future.

Favorable vote on question of levying special school building tax in county school district to pay rentals for school buildings to be erected and financed by fiscal court by issuing revenue bonds did not create an indebtedness and such tax was leviable each year, only upon property within the district at the time annual levy was made, and property transferred to city school district, after special tax was voted, was not liable for special tax levied after transfer.

City school district to which territory was transferred from county school district was not liable for any part of such revenue bonds under statute providing for assumption of proportional part of indebtedness, since revenue bonds did not constitute an indebtedness of county school district. (June 20, 1952.)

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.)

Dodge v. Jefferson County Board of Education 298 Ky., 1, 181, S. W. (2d) 406. Maintenance of recreational facilities for children of school age is a proper "school purpose", and county board of education, under KRS 97.010, could lawfully appropriate money for a recreational project jointly with the fiscal court.

160.531 Board of Education in County Containing a City of the First Class May Impose License Fees on Business, Trade, Occupation or Profession; Rates; Approval of Voters Required; Exemptions. (1) Any board of education in a county containing a city of the first class, in addition to ad valorem taxes, may by resolution impose license fees on any business, trade, occupation or profession for revenue purposes at a rate not to exceed one-half of one per cent of (a) salaries, wages, commissions and other compensations earned by every person within the school district of the board of education imposing the license fee, for work done, and services performed or rendered in said school district (all of such being hereinafter collectively referred to as "wages"), and (b) the net profits of all businesses, professions or occupations from activities conducted in said school district (hereinafter collectively referred to as "net profits"); provided however, that no such license fees may be imposed by any board unless a majority of those voting in such school district at an election called by said board approve of the authority of said board to levy license fees as above set out.

(2) No company which pays an ad valorem tax and a franchise tax shall be required to pay a license fee and no license fee shall be imposed upon or collected from any insurance company, bank, trust company, combined bank and trust company, or combined trust, banking and title business in this state, or in any other case where said board of education is now prohibited by statute from imposing such a license fee. (1956, c. 108, §§ 1, 3)

160.532 Election. The election in any school district shall be held not less than 15 nor more than 60 days from the time a resolution calling the election is adopted by such board of education. The

election may be held at the same time as the regular election in November or on any Saturday at any other time in the year except on the date of the primary election in August. 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 if held on the regular election day in November shall be borne by the fiscal court except where the election is held in a school district of a city, in which case the cost of the election shall be borne by the city. If the election is held at any time other than the regular election in November the cost of such election shall be borne by the board of education which calls such election. (1956, c. 108, § 2)

160.533 Collection of License Fees. The license fee imposed by any board of education may be collected by said board of education or under contract by the commissioners of the sinking fund of the city of the first class, the county sheriff of the county in which the school districts lie, or any other appropriate governmental collecting agency or officer, pursuant to such rules and regulations as said board of education may from time to time adopt. Under such rules and regulations such board of education shall have the right to require employers to withhold license fees at the source of the wages, to set license fee due dates, to provide for interest and penalties on overdue license fees, and to adopt all other provisions which will insure an efficient administration of the imposition and collection of the said license fees. Proceeds from said license fees shall not become a part of the funds belonging to such collecting agency or officer but shall be paid at the end of each month to the treasurer of the respective boards of education imposing the license fee. The board of education shall pay to the said collecting agency or officer for collecting said license fees an amount equal to that portion of the cost of collecting all the revenue which is collected by the said collecting agency or officer as the amount of revenue collected for said board of education bears to the total amount of all revenue collected by the said collecting agency or officer. (1956, c. 108, § 4)

160.534 Provisions of KRS 160.460, 160.500 and 160.510 Inapplicable to License Fees. The provisions of KRS 160.460, 160.500 and 160.510 shall not apply to the license fees hereunder or any other provision of KRS 160.531 to 160.534. (1956, c. 108, § 5)

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.

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.)

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.

Bell v. Board of Education of Barren County School District, 343 S. W. (2d) 804. 1961. Floating indebtedness, necessarily incurred by county board of education, not in excess of constitutional debt limitation, for legitimate school purposes, because reasonably anticipated franchise tax collections had been greatly reduced by judicial invalidation of method of computing assessed valuation of gas pipeline franchises, constituted valid obligation of county school district which could be funded by bond issue.

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.

Bell, et al. v. Board of Education of Shelby County, 308 Ky. 848, 215 S. W. (2d) 1007. Undertaking by county board of education to erect a new high school building and issue revenue bonds to finance the project without submitting revised financial program in the form of an amended or supplemental budget to State Board of Education and obtaining its approval thereof was without legal authority and subject to injunction. (December 17, 1948.)

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 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. 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) The treasurer shall issue his check on the depository for payment of all legal claims which have been authorized for payment in accordance with rules and regulations previously adopted by the local board of education and approved by the State Board of Education. (1956, c. 173)

Bonds of public officers, conditions, recovery on, KRS 62.060 to 62.080.

Lewis et al. v. Morgan et al., 252 S. W. (2d) 691. County board of education possesses not only the powers specifically conferred by statute, but also such implied powers as are reasonably inferable from the express powers and objects to be attained by creation of such board.

Statutory provisions requiring annual audit of school building funds by public accountant or accountant approved by the State Department of Education are not mere grants of power to county board of education to conduct audits, but create an absolute duty which boards are required to perform.

Statutory provisions requiring audits of school building funds, authorizing county boards of education to require audits of accounts and records of outgoing treasurers of school boards and providing for depositories of school funds and authorizing county boards of education to have audits made of records of depositories are merely additions to powers of county boards of education, and are not intended to limit or restrict inherent powers of boards to conduct their fiscal affairs. (November 7, 1952.)

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., 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.

Lewis et al. v. Morgan et al., 252 S. W. (2d) 691. County board of education possesses not only the powers specifically conferred by statute, but also such implied powers as are reasonably inferable from the express powers and objects to be attained by creation of such board.

Statutory provisions requiring annual audit of school building funds by public accountant or accountant approved by the State Department of Education are not mere grants of power to county board of education to conduct audits, but create an absolute duty which boards are required to perform.

Statutory provisions requiring audits of school building funds, authorizing county boards of education to require audits of accounts and records of outgoing treasurers of school boards and providing for depositories of school funds and authorizing county boards of education to have audits made of records of depositories are merely additions to powers of county boards of education, and are not intended to limit or restrict inherent powers of boards to conduct their fiscal affairs. (November 7, 1952.)

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 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.)

Japs v. Board of Education of Jefferson County, 291 S. W. (2d) 825. Under provisions of KRS 158.110 authorizing transportation for grade school pupils to be furnished from general funds or otherwise, the words "or otherwise" have reference to funds that may come to the hands of the board of education other than through the exercise of a coercive revenue-producing power and do not include the charging of fares.

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.

160.631 Definitions for KRS 160.632. As used in KRS 160.632, unless the context otherwise requires:

(1) "Out-of-district children," means those children of school age resident in a state-operated institution who were placed therein from school districts other than the one in which the institution is located.

(2) "Current costs and expenses," means all expenditures, other than for capital outlay and debt service, which, in the final result, are an actual charge on the tax revenue of the school district for the furnishing of school services to out-of-district children. Among other things, "current costs and expenses" does not include those expenditures for which the school district receives reimbursement from any source, other than from the state under the provisions of KRS 160.632. (1952, c. 88, § 1; 1958, c. 126, § 19)

160.632 Reimbursement of Districts for School Services to Out-of-District Children; Reports; Payment. (1) Any county or independent school district which provides elementary or secondary school services to out-of-district children shall be reimbursed by the Department of Education, out of funds not required by law to be expended for other purposes or in any other manner, in an amount equal to all current costs and expenses of the district for furnishing such services in excess of any per capita distribution received from the Common School Fund on behalf of the children. The school services furnished to out-of-district children shall be substantially equal to those furnished to other school children of the district.

(2) The school district shall make to the Superintendent of Public Instruction such reports as he requires concerning school services for out-of-district children, and shall file with the state agency operating the institution in which the children are resident a copy of the annual report made to the Superintendent of Public Instruction.

(3) The school district, at the end of each school year, shall make application to the Superintendent of Public Instruction for the reimbursement due on behalf of school services furnished during the year just ended. After approving the application, the Super-

intendent of Public Instruction shall notify the Commissioner of Finance who shall cause a warrant, in the appropriate amount, to be drawn in favor of the school district. (1952, c. 88, § § 2, 3, 4)

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 find 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 CERTIFICATION OF SCHOOL EMPLOYES

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161.826 Rules and regulations governing civil service system.
161.827 Emergency appointments; promotion; 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.
161.841 Retirement plan for noninstructional school employes.

PENALTIES

161.990 Penalties.

CERTIFICATION OF SCHOOL EMPLOYES

161.010 [4502-2] **Definitions for KRS 161.020 to 161.120.** As used in KRS 161.020 to 161.120:

(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 161.120, 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 161.120 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.

Certification of teachers of exceptional or handicapped children, KRS 157.250.

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 had 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.)

161.035 Validity of Certificates Issued Prior to 1950. The validity of any certificate which is in force on June 30, 1950 shall not be impaired by the repeal of KRS 161.050 to 161.090 and such certificate shall be issued, renewed or extended in accordance with the terms of the law applying at the date of issue of such certificate. (1950, c. 103, § 2)

161.040 [4502-11] **General Qualifications for Certificates.** No person shall receive or hold any certificate who does not present evidence of good moral character or who is under eighteen years of age. (1950, c. 103, § 1)

Redding, et al. v. Fincel, 311 Ky. 534. Where plaintiff's standard elementary teaching certificate expired on June 30, 1946, and was not renewed beginning of following school term, teacher's tenure contract between plaintiff and city board of education entered into in October, 1942, expired and plaintiff had no further right under that contract, so that board was within its rights in terminating plaintiff's employment effective last day of the 1947-48 school term. (June 7, 1949.)

Conley, et al. v. Ousley, 251 Ky. 583. Teachers 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.)

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.)

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.)

Floyd County Board of Education v. Slone, 307 S. W. (2d) 912. Plaintiff, who had been ineligible for office or position of teacher because she held no certificate and who had failed to qualify for such certificate during the period for which her salary was withheld, taught as a volunteer and was entitled to no compensation for services rendered during the period.

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 is-

sued 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.
Suspension of certificate in case of breach of contract by teacher, KRS 161.780.

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 156.132 to 156.146.
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.

161.155 Sick Leave for Teachers. (1) For the purpose of this section, "teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state.

(2) Each district board of education shall allow to each teacher in its common school system not less than ten days sick leave during each school year, without deduction of salary, provided he presents

a personal affidavit or a certificate of a reputable physician stating that he was ill on the day or days absent.

(3) Any days of sick leave not taken during any school year shall accumulate and may be taken in any subsequent school year or years, except that no teacher shall be entitled to take more than twenty days of accumulated sick leave unless the district board of education, in its discretion, authorizes a greater number of days to be accumulated. Any district board of education may, in its discretion, allow teachers in its common school system sick leave in excess of the number of days prescribed in this section. (1948, c. 88; 1962, c. 75; effective June 14, 1962)

161.156 Free Physical Examination. The State Department of Health, through the facilities of the local health units, shall provide for all school teachers, free of charge, the physical examinations required by their employing authority in the educational system. (1950, c. 204)

DISCRIMINATION AGAINST TEACHERS AND OTHER SCHOOL EMPLOYES

161.162 Discrimination Prohibited. No teacher or employe of any district board of education shall be appointed or promoted to, or demoted or dismissed from, any position or in any way favored or discriminated against with respect to employment because of his political or religious opinions or affiliations or ethnic origin. (1962, c. 244, Art. IV, § 1; effective June 14, 1962)

Human Rights Commission, KRS Ch. 19.

161.164 Bribery Prohibited. No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position as teacher or employe of any district board of education, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person. (1962, c. 244, Art. IV, § 2; effective June 14, 1962)

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 156.132 to 156.146.

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.

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. 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.

Casey County Board of Education v. Luster, 282 S. W. (2d) 233. Rule promulgated by principal of public school and which prohibited children from entering or patronizing cafe, which was adjacent to school grounds, during school hours was not unreasonable or arbitrary, but appeared to be for the common good of all children attending school.

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 immediately 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 for KRS 161.220 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;

(d) Any member of a local retirement system who became a member of the state retirement system according to the provisions of Acts, 1938, 1st ex. s., c. 1, paragraph 49; and

(e) Such members of the administrative staff of the Teachers' Retirement System of the State of Kentucky as the Board of Trustees may designate by regulation.

(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 Acts, 1938, 1st ex. s., c. 1, 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 service 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 the following dates herein, 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, and prior to July 1, 1955, which exceeds two thousand four hundred dollars shall be considered two thousand four hundred dollars and any salary subsequent to July 1, 1955, shall be the actual arithmetic

average salary for any five consecutive years which will provide the highest average.

(11) "Annual compensation" after July 1, 1955, 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 deduction.

(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.

(20) "Dependent" as used in KRS 161.520, means a beneficiary of a survivors benefit who was receiving, at the time of death of the member, at least one-half of the support from the member for maintenance, including board, lodging, medical care and like costs. (1962, c. 64, § 1; effective July 1, 1962)

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 Educat'on 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; Junior Colleges.** (1) 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.

(2) The retirement system shall further embrace any existing public junior colleges established and maintained under KRS 165.160 to 165.260, the members of the instructional and administrative staffs of which shall on and after July 1, 1948, be eligible to membership in the teachers' retirement system of the State of Kentucky with the following options as to said membership:

(a) Any present member of the instructional and administrative staffs may individually decline membership and waive all obligations and rights under KRS 161.220 to 161.710, by acknowledgment on a proper form provided by the board of trustees.

(b) Any present member of the instructional and administrative staffs may come into membership with the status of "new" teacher entering service on July 1, 1948.

(c) Any present member of the instructional and administrative staffs may make the retirement contribution provided by law for any year or years subsequent to July 1, 1940, taught in the institution in which now employed and in addition thereto an actuarial adjustment of three percent compound interest and receive service credit as if payment had been made currently as their respective duties were performed. Members of the staff taking this option shall be entitled to prior service credit as defined in KRS 161.220 (7). A true record of all such service shall be filed in the office of the board of trustees of the teachers' retirement system.

(3) The foregoing options must be determined in writing prior to July 1, 1948. If no option is made on the part of any member of the staffs, his status shall be that of option (b) and membership in the retirement system shall be required as a condition of employment. On and after July 1, 1948, membership shall be compulsory as a condition of employment for all new members of the instructional and administrative staffs of said existing public junior colleges.

(4) The obligations, rights, benefits, and privileges created by subsections (2) and (3) of this section shall be extended to any public junior college or colleges created after July 1, 1948, and created and maintained under KRS 165.160 to 165.260, under such rules and regulations not inconsistent with the statutes as the board of trustees of the teachers' retirement system may adopt. (1948, c. 194)

165.250 [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.** An election shall be held on or before June 1 of 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, paragraph 7, and 1940, c. 192, paragraph 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 contributing 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. 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 and the secretary of the teachers' retirement system shall act as secretary to the committee. Two persons shall be nominated by the nominating committee. All expenses of the election shall be paid by the board of trustees out of its general expense fund. (1960, c. 44, § 2)

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.

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 except that elective members shall receive twenty-five dollars for each day the board is in session and all board members shall be reimbursed from the expense fund for all necessary expenses they incur through service on the board. Suitable office quarters for the operations of the Retirement System shall be provided by the state at the capital. (1960, c. 44, § 3; effective July 1, 1960)

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] **Officers of Board; Personnel of System.** (1) The board of trustees shall elect from its membership a chairman and a vice chairman on an annual basis as prescribed by the rules and regulations of the board of trustees. It shall appoint or contract for the services of an executive secretary and fix his compensation without limitation of the provisions of KRS Chapter 18 and KRS 64.640 subject to the approval of the Commissioner of Personnel.

The executive secretary, at the time of his appointment or selection, shall be a person at least thirty-five years of age, a graduate of a standard four-year college with at least ten years' membership in the Teachers' 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 or selection.

(2) The board shall engage such actuarial, legal, medical and other technical services and such clerical and other services as are required to transact the business of the retirement system. The compensation of all persons engaged by the board shall be paid at such rates and in such amounts as the board approves, subject to the approval of the Commissioner of Personnel. All other expenses for the operation of the retirement system shall be in such amounts as the board approves. (1958, c. 8, § 1; 1962, c. 64, § 2; effective July 1, 1962)

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 at-

torneys 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 actuary a competent person who shall be a member of the Conference of Actuaries in Public Practice or the Society of Actuaries. He shall be the technical adviser of the board on matters regarding the operation of funds of the system and shall perform such other duties as are required in connection therewith. At least once in each ten-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. At least once in each two-year period the actuary shall make an actuarial valuation of the retirement system. (1960, c. 44, § 5; 1962, c. 64, § 3; effective July 1, 1962)

161.410 [4506b-19] **Medical Review Board, Designation; Duties.** The board of trustees shall designate a medical review board consisting of three licensed physicians. The medical review board may designate physicians in various areas of the Commonwealth to conduct examinations as needed. The medical review board shall pass upon all applications for disability retirement and upon all statements, certifications, and examinations submitted in connection with such applications. The disposition of each case shall be recommended by the board in writing to the board of trustees. Members of the medical review board shall follow such rules and regulations regarding procedures as the board of trustees may enact and shall be paid reasonable fees and expenses as authorized by the board of trustees in compliance with the provisions of KRS 161.330. The board of trustees may secure such additional medical service and information as it deems necessary. (1960, c. 44, § 6; effective July 1, 1960)

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 guaranteed 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) Bonds, notes or other obligations of or guaranteed by the United States, or those for which the credit of the United States

is pledged for the payment of the principal and interest thereof, and any bonds, notes, debentures or any other obligation or securities issued or guaranteed by any federal government agency, presently or in the future established by an Act of Congress, and as amended or supplemented from time to time;

(b) Obligations of the Commonwealth of Kentucky and obligations of its departments and agencies, including revenue bonds;

(c) Obligations of any city of the first, second, third, fourth, or fifth classes of the Commonwealth of Kentucky, or county containing such city, for the payment of principal and interest on which the full faith and credit of the issuing body is pledged;

(d) School improvement bonds issued in accordance with authority granted under KRS 162.080 to and including KRS 162.100;

(e) School building revenue bonds issued in accordance with authority granted under KRS 162.120 to and including KRS 162.300, and any act or acts passed in the 1960 session of the General Assembly providing for the issuance of school building revenue bonds, provided the issuance of such bonds is approved by the State Board of Education;

(f) Revenue bonds issued by educational institutions of the Commonwealth of Kentucky as authorized by KRS 162.340 to and including KRS 162.380;

(g) Public utility revenue bonds issued by any city of the first, second, third, fourth or fifth classes, or by a county containing such a city, or by a special taxing district located within such city or county in the Commonwealth, provided: 1. the net income from such public utility property available for the payment of such securities, for the five fiscal years next preceding any such investment, shall have averaged at least 1 1/10 times all debt service requirements for principal, interest and sinking fund of all revenue securities payable only out of the revenues from such property during each of such fiscal years, and 2. the issuer of the securities covenants and is obligated to maintain rates to produce revenues, or will receive contract payments, either or both of which will be sufficient to meet costs of operation, taxes and all debt service requirements and such obligation or contract is legally enforceable;

(h) Obligations, consisting of notes, bonds, debentures, or equipment trust certificates issued under an indenture, which are the direct obligation or in the case of equipment trust certificates,

are secured by direct obligation, of a corporation organized under the laws of the United States or any state in the United States or the District of Columbia, when such bonds are rated at time of purchase within the three highest classifications established by one or more major rating services;

(i) Deposits in banks or trust companies in the Commonwealth of Kentucky organized under the laws of this state, or of the United States, when such deposits are interest bearing at a rate not lower than two percent per annum, and when such deposits are fully secured by direct obligations of the United States Government or of the Commonwealth of Kentucky, placed in the hands of the state treasurer and approved by the board of trustees;

(j) Stocks, preferred or common, issued or guaranteed by a corporation created or existing under the laws of the United States or any state thereof, subject to the statutory restrictions governing investments by insurance companies incorporated in Kentucky;

(k) Mutual-type funds established and controlled by any organization which may be formed by the Kentucky Teachers' Retirement System and other state retirement systems of Kentucky and other southern states for the mutual investment of funds in Kentucky or the southern regional area;

(l) Productive real estate;

(m) Industrial revenue bonds issued under authority of KRS 103.200 to 103.280; provided, however, the lease for the building between the city and the leasing corporation is for a period equal to or greater than the period for which the bonds are issued and the rental payments are sufficient to amortize all the bonds issued, and further provided that:

1. The Common stock of the leasing corporation shall be listed on either the New York Stock Exchange or the American Stock Exchange.

2. In each of the last three reporting years prior to the issuance of the bonds the income before taxes of the leasing corporation must have been equal to at least twice the maximum lease requirements under the lease agreement.

3. The current assets of the leasing corporation at the end of each of the three last reporting years prior to the issuance of the bonds must have been at least 150 percent of the current liabilities at those given periods.

4. The net worth of the leasing corporation at the end of the

last reporting period must be at least twice the amount of the proposed bond issue under the lease agreement.

The net working capital of the leasing corporation at the end of the most recent reporting year must have been at least fifteen million dollars.

(2) (a) Not more than twenty-five percent of any one issue may be purchased by the board of trustees as an investment, and not more than five percent of the invested funds of the retirement system may be invested in the obligations of any issuer except in the case of obligations of the United States Government; provided that not more than ten percent of the invested funds may be invested in an issue of the Commonwealth of Kentucky or its departments or agencies as defined in this subsection. For the purpose of this subsection revenue bond obligations of the Commonwealth of Kentucky or its departments or agencies shall not be deemed to be obligations of the same obligor if the revenues pledged are derived from separate projects. No investment may be made in the obligation of any issuer which has been in default of any of its bonds or interest during a period of the last ten years immediately preceding the purchase.

(b) No more than sixty percent of the assets of the retirement system may be invested in the foregoing classification subsection (1) (h); no more than twenty percent of said assets may be invested in the foregoing classification subsection (1) (b); no more than twenty-five percent of said assets may be invested in any one of the foregoing classifications subsections (1) (c), (1) (d), (1) (e), (1) (f) and (1) (g); and no more than ten percent of said assets may be invested in any one of the foregoing classifications subsections (1) (i), (1) (j), and (1) (k); and no more than six percent of said assets may be invested in the foregoing classifications subsections (1) (l) and (1) (m).

(3) No investment or disbursement of funds shall be made unless authorized by resolution adopted by the board of trustees. (1958, c. 8, § 2; 1960, c. 44, § 7; 1962, c. 64, § 4)

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.** (1) The membership of the retirement system shall consist of all new teachers, and all present teachers except as provided in Acts, 1938, 1st ex. s., c. 1, paragraph 29. Persons entering service who hold membership in a retirement system financed in whole or part by Kentucky state funds may retain membership in that system instead of becoming members of the teachers' retirement system, provided the statutes governing said system make continued membership possible.

(2) Effective July 1, 1960, and thereafter, a member or former member of the retirement system with at least three years of contributing service subsequent to the withdrawal of contributions and cancellation of service credit may regain such credit by depositing in the teachers' savings fund the amount withdrawn with interest at the rate of three percent per annum compounded annually computed from the first of the month of withdrawal and including the month of redeposit and by depositing in the state accumulation fund an additional sum equal to fifty percent of this amount. The payment to the state accumulation fund, including regular compound interest, shall, in the event of death of the member prior to retire-

ment, be considered as accumulated contributions of the teacher.

(3) Effective July 1, 1960, any teacher who declined membership as provided in Acts, 1938, 1st ex. s., c. 1, paragraph 29, and who has since entered as a "new" teacher, may secure service credit for prior service, and for any subsequent service prior to date of membership, by depositing in the teachers' savings fund contributions for each year of subsequent service prior to date of membership, with interest at the rate of three percent compounded annually to the date of deposit. The teacher shall also deposit an additional sum equal to fifty percent of this amount in the state accumulation fund. In the event of the death of the member prior to retirement, the payment to the state accumulation fund shall be considered as accumlated contributions of the member.

(4) Effective July 1, 1960, any teacher who declined membership as provided in Acts, 1938, 1st ex. s., c. 9, paragraph 29, may become a member and receive credit for prior and subsequent service by making proper contribution for the year 1940-41 and for each year thereafter, together with interest at the rate of three percent per annum compounded annually. The teacher shall deposit an additional sum equal to fifty percent of this amount in the state accumulation fund. In the event of the member's death prior to retirement, the contributions to the state accumulation fund shall be considered as accumulated contributions of the member.

(5) No person shall take advantage of the provision of subsections (2), (3) and (4) above more than once. (1960, c. 44, § 8; 1962, c. 64, § 5)

Note: The 1962 amendment to KRS 161.470 takes effect July 1, 1962.

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 employe, his date of birth, his age at entrance into the system, the salary received as a public school employe 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] **Service Credit.** 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. (1962, c. 64, § 6; effective July 1, 1962)

161.505 Prior Service Credit to War Veterans for Military Service. Any honorably discharged veteran of World War I who is a member of the teachers' retirement system in good standing, may receive prior service credit for such military service, not to exceed an enlistment of four years, upon presenting his discharge papers or a certified photostatic copy of the same to the board of trustees of the teachers' retirement system and their acceptance of this or other sufficient evidence as to the validity of the military service presented for credit. In no case shall any member receive credit for more than thirty years of prior service including any military service accredited. (1954, c. 64)

161.507 Prior Service Credit For Veterans; Contributions. (1) Any member who is drafted or enlists in the Armed Forces of the United States may, currently or at any time subsequent to return to employment in a position covered by the teachers' retirement system of the State of Kentucky, make contributions to the retirement system for each year of military service, subject to rules and regulations established by the board of trustees. Contributions shall be made on the basis of the last salary earned prior to entrance into military service.

(2) Any person, other than a member, who is drafted or enlists in the Armed Forces of the United States and who enters employment covered by the Teachers' Retirement System of the State of Kentucky within eighteen months following other than dishonorable discharge or separation from active military service shall be

eligible to make contributions and receive credit for each year of military service. Contributions shall be made on the basis of the salary earned during the first employment in a covered position. Any person, other than a member, who enters college or resumes college training within twelve months following other than dishonorable discharge or separation from active military service and who subsequently enters employment covered by the Teachers' Retirement System of the State of Kentucky within eighteen months following completion of college training may make contributions and receive military service credit as set forth in this subsection.

(3) All military service credit granted under the provisions of this section shall be considered as Kentucky teaching service. No person may receive credit for a greater number of years of military service than that required of him by Act of Congress or the Executive Order of the President of the United States. (1962, c. 64, § 20; effective July 1, 1962)

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 prior to July 1, 1940. (1962, c. 64, § 7; effective July 1, 1962)

161.515 Out-of-State Service Credit. (1) For the purposes of this section, "out-of-state service" shall mean service in any 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, 1941, not to exceed eight such years actually taught as a certified or licensed teacher, provided such member pay to the retirement system the amount he would have paid had he been teaching in Kentucky and in addition thereto three per cent 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. 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 credits 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, 1941. If out-of-state service was rendered in 1940-41, then contributions must be made for this year in the same manner as described under paragraph (a) of this subsection. All such service, both subsequent and prior, shall be certified to by the member and verified according to KRS 161.480 and 161.490. (1962, c. 64, § 8; effective July 1, 1962)

161.520 [4506b-33] **Termination of Membership; Survivor's Benefits.** (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 the system the sums he received from it upon his withdrawal with regular interest and thus re-establish his prior service rights.

(3) In case of withdrawal from service prior to eligibility for retirement, the Board of Trustees shall return to the teacher all of his accumulated contributions, but the teacher shall have no claim upon any contributions made by the state with a view to his retirement. If the member is eligible for a retirement allowance provided by KRS 161.600, 161.610 or 161.620, no withdrawal and refund shall

be permitted, but in lieu thereof the teacher shall be entitled to the retirement or disability allowance provided by the retirement system.

(4) Except as provided in subsection (5), 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) Upon the death of a member who has had subsequent service credit for at least six years and who was in active service for at least one full fiscal year immediately prior to his death or prior to the beginning of his last illness, or upon the death of a teacher retired for disability, the Board of Trustees shall pay to the estate or assigns of the deceased teacher a refund of his accumulated contributions; provided, however, the survivors of the deceased teacher, in the following named order, may elect to receive in lieu of a refund of the accumulated contributions a survivors benefit, payable as follows:

(a) Where the survivor is a widow or a dependent widower, and the survivor's marriage to the deceased teacher took place at least one year prior to the teacher's death, the benefit shall be eighty dollars per month, or one-half the retirement allowance that the teacher would have received had he been eligible and retired at the date of his death or was receiving as a disabled teacher at the date of death, whichever is larger.

(b) Where the survivor is an unmarried child under age eighteen, the benefit shall be eighty dollars per month in the case of one such child, one hundred and twenty-five dollars per month in the case of two such children, one hundred and fifty dollars per month in the case of three such children, and one hundred and sixty dollars per month in the case of four or more such children.

(c) Where the survivor is a child age eighteen or older whose mental or physical condition is sufficient to cause his dependency on the deceased member at the time of the member's death, the benefit shall be one hundred dollars per month, payable for the life of such child or until such time as the mental or physical condition creating the dependency no longer exists. Benefits under this paragraph and paragraph (b) shall apply to legally adopted survivors provided the proceedings for adoption were initiated at least

one year prior to the death of the member. Benefits under this paragraph and paragraph (b) shall apply notwithstanding an eligible widow or dependent widower survives the deceased member.

(d) Where the sole eligible survivor is a dependent parent aged sixty-five or over, the benefit shall be eighty dollars per month for one parent or one hundred and twenty dollars per month for two parents. Dependency of a parent shall be established as of the date of the death of the member.

(e) Where the sole eligible survivor is a dependent brother or sister, the benefit shall be eighty dollars per month. In order to qualify the brother or sister must have been a resident of the deceased member's household for at least one full year prior to the member's death or must have been receiving care in a hospital, nursing home or other institution at the member's expense for a like period.

(f) The benefit to a child shall terminate upon the attainment of age eighteen or upon marriage. The benefit to a widow, dependent widower, dependent parent or dependent brother or sister shall terminate upon marriage. The benefit shall not be paid during the time the survivor, other than a child, is receiving an annuity, pension or allowance in excess of eighty dollars per month from a retirement or pension system in the State of Kentucky financed in whole or in part by public contributions, excluding Old Age and Survivors Insurance, or has income from all sources of $2,400 per year, not including any benefit payable under the terms of KRS 161.220 to 161.710. If income from all sources exceeds $2,400 per year, one dollar shall be subtracted from the benefit for each dollar of total income exceeding $2,400 per year.

(g) The Board of Trustees shall be the sole judge of eligibility or dependency of any beneficiary, and may require formal application or information relating thereto, including proof of annual income satisfactory to the board. The Board of Trustees may subpoena records and individuals whenever it deems such action necessary.

(h) No payments of benefits shall be made unless the Board of Trustees shall have authorized such payments. The board shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions and in every case the decision of the Board of Trustees shall be final as to eligibility,

dependency or disability, and amounts of benefit payable. (1958, c. 7, § 2; 1962, c. 64, § 10; effective July 1, 1962)

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] **Member's Contribution to System.** Each member shall contribute to the retirement system five per cent of his annual compensation. The contribution of a member shall not exceed this percentage on his current annual compensation. (1946, c. 111, § 3; 1954, c. 196, § 3; 1960, c. 44, § 10; effective July 1, 1960)

161.545 Substitute Teachers and Teachers On Leave of Absence May Not Contribute; Exception. Teachers may not make contributions and receive service credit for substitute teaching or other irregular service except as provided in rules and regulations of the board of trustees. Teachers who are placed on leave of absence may not make contributions and receive service credit for such leave except as provided in rules and regulations adopted by the board of trustees. (1960, c. 44, § 14; effective March 10, 1960)

161.550 [4506b-37] **State's Contribution to System.** Beginning with July 1, 1960, the state shall contribute annually to the retirement system a permanent amount equal to that contributed by all members. The state shall contribute annually an amount sufficient to discharge the prior service obligation with interest assumed by the state, over a period not greater than thirty years. (1960, c. 44, § 11; effective July 1, 1960)

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 amount 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 prior and subsequent service rendered by him for which service credit has been allowed. (1962, c. 64, § 11; effective July 1, 1962)

161.595 Service Credit; Other Public Employment. (1) Upon service retirement, a member of the Teachers' Retirement System may obtain credit for all or any part of the service otherwise creditable under the Kentucky Employes' Retirement System, the County Employes' Retirement System, or in the service of the United States Government for which service credit is not otherwise given, upon the payment by the member of such amount or amounts as are actuarially determined to be equal to the increased liability of the Teachers' Retirement System by virtue of such additional service credit.

(2) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(3) No person shall be allowed credit for the same period of service in more than one of these three retirement systems. (1962, c. 107, § § 3, 4, 5,; effective June 14, 1962)

161.600 [4506b-41] **Retirement Conditions; Subsequent Service.** (1) Any member who has attained the age of sixty years and who has completed fifteen years of service as a teacher in Kentucky, five of which are subsequent to July 1, 1941, with at least one year subsequent to July 1, 1959, may retire upon written application to the Board of Trustees of the Teachers' Retirement System. Any member who completes five years of service subsequent to July 1, 1941, and who enters employment covered by another retirement system financed in whole or part with Kentucky state funds, may retain membership in the Teachers' Retirement System instead of joining the new system. Any member shall be automatically retired as of July 1 following the end of the fiscal year during which he attains the age of seventy. Any teacher retired by reason of service and less than age seventy may waive his annuity and return to regular employment in a Kentucky public elementary or secondary school or state college. Such teacher shall receive no annuity payments while so employed and shall be returned to the annuity rolls as of July 1 following the close of the fiscal year in which the teaching was performed. Such person shall not be considered a member of the retirement system, and no contributions shall be made for him. Service subsequent to retirement shall not be used to improve an annuity. (1962, c. 64, § 12; effective July 1, 1962)

161.605 Substitute Teaching by Retired Teachers. Retired teachers may do substitute teaching in the public schools of Ken-

tucky for a period not to exceed sixty (60) days in any one school year, and receive compensation for same without reduction in retirement annuities. (1952, c. 226; 1958, c. 10)

161.610 [4506b-42] **Withdrawal After Thirty Years; Benefit Rights; Options.** (1) 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-five 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-five 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-five years and thereafter, be entitled to receive the same retirement allowance as a teacher who retires at the age of sixty-five years.

(2) Any member who has completed thirty years of service in Kentucky and who withdraws from teaching subsequent to July 1, 1950, may refuse to withdraw his deposits and irrespective of age apply for a retirement allowance as of July 1 of any scholastic year, but not later than the end of the year in which he attains his sixty-fifth birthday. (1962, c. 64, § 13; effective July 1, 1962)

161.620 [4506b-43] **Retirement Allowances; Amount.** (1) The retirement allowances of the member retiring for superannuation whose age of retirement is seventy years shall be one percent of his average annual prior service salary for each year of prior service credit plus one and one-half percent of his average annual compensation for each year of subsequent service between the years 1941 and July 1, 1955, plus a percentage in excess of one and one-half percent, to be determined by the actuary of the system and approved by the board of trustees, said determined percentage to be taken of his annual subsequent service salary for the years after July 1, 1955. The retirement allowance of a member retiring for superannuation whose age at retirement is 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 tables in use by the system. 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 ap-

proved by the board of trustees. In determining the amount of retirement allowance, the actuarial value for male lives from the actuarial tables in use by the system shall be applied to all members, both male and female.

(2) For any member retiring on or after July 1, 1955, no retirement allowance shall be greater than one-half of the average annual compensation unless such allowance shall result from the application of a statutory minimum.

(3) Effective July 1, 1960, each teacher retired prior to that date who had reached age sixty as of July 1, 1960, and had service credit of twenty or more years, and all teachers retired for disability, shall receive a total annual allowance amounting to not less than forty dollars multiplied by the service credit years of the teacher. Effective July 1, 1962, each teacher retired prior to July 1, 1960, with thirty or more years of service credit shall, effective July 1 following the sixtieth birthdate, be entitled to receive a total annual allowance which shall not be less than an amount produced by multiplying the total years of service credit of the teacher by forty dollars.

(4) Beginning July 1, 1960, all teachers retiring thereafter who have reached the age of sixty at date of retirement, who have thirty or more years of service credit and are in active service at time of retirement, and all teachers retiring by reason of disability, shall receive an annual allowance of not less than forty dollars multiplied by the service credit years of the teacher. It is further provided that any teacher who is forced into retirement due to reaching mandatory retirement age shall qualify for the minimum annuity herein provided if the teacher has twenty years of service credit plus one year of credit for each year elapsing between July 1, 1960, and date of retirement, or July 1, 1970, whichever is earlier.

(5) The minimum provided in this section shall apply in the case of teachers retired or retiring under an option in the same proportion to the benefits of the teacher and his beneficiary or beneficiaries. (1960, c. 44, § 13; 1962, c. 64, § 14; effective July 1, 1962)

161.625 Increased Allowances. (1) Beginning July 1, 1958, each teacher retired prior to July 1, 1955, and each teacher retired thereafter who has not received service credit subsequent to that date, shall be entitled to an increase in his retirement or disability allowance equal to thirty per cent of such allowance, and each teacher

retired subsequent to said date having service credit subsequent thereto, shall be entitled to an increase in his retirement or disability allowance on a scale to be fixed by the board of trustees with the advice of the actuary. In fixing said scale the board of trustees shall reduce the increase established by this section by an amount not exceeding ten per cent of the maximum increase for each service credit year earned subsequent to July 1, 1955. Such reduction of the arbitrary increase fixed by this section may be established at less than the aforesaid ten per cent for each service year's credit if the board determines that the value to the annuitant of the increase in the allowance of each service year subsequent to the aforesaid date is less than the amount of said reduction.

(2) In the event the total annual allowance provided under subsection (1) is an amount less than the service credit years of the teacher multiplied by twenty-five dollars, then the provision of subsection (1) shall not apply, but instead the annual allowance shall be twenty-five dollars per service credit year.

(3) In the case of teachers retired or retiring under an option as provided in KRS 161.630, the increases provided under subsections (1) and (2) shall be applied in the same proportion to the benefits of the teacher and his beneficiary or beneficiaries.

(4) Increases in retirement allowances provided under subsections (1), (2) and (3) shall not apply to allowance accrued by reason of voluntary contributions.

(5) No retroactive payments shall be made under subsections (1), (2) and (3) prior to the beginning date of such increases.

(6) The increases provided in this section shall be payable for the life of the annuitant and in the same manner and time as provided in KRS 161.640. (1958, c. 7, § 1)

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. This section does not apply to disability allowances. (1962, c. 64, § 15; effective July 1, 1962)

161.640 [4506b-46] **Payment of Annuities; Time of.** Retirement

annuities shall be payable monthly. The first payment to 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 monthly payment. (1952, c. 144, § 1)

161.650 [4506b-47] **Death of Retired Member; Payment to Beneficiary.** In case of death of a member who has retired by reason of superannuation or disability, any portion of the member's contributions, 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 beneficiary in such manner as the board of trustees elects. (1962, c. 64, § 16; effective July 1, 1962)

161.655 Death Benefits. (1) Upon the death of a retired teacher who at time of death is receiving a retirement or disability allowance, or upon the death of an active member, a death benefit of five hundred dollars shall be paid to his estate following application to the Board of Trustees, together with acceptable evidence of death and eligibility.

(2) Suit or civil action shall not be required for the collection of the death benefit provided herein, but nothing in this section shall prevent the maintenance of suit or civil action against the beneficiary or legal representative receiving the death benefit. (1958, c. 7, § 4; 1962, c. 64, § 17)

Note: The 1962 amendment to KRS 161.655 takes effect July 1, 1962.

161.660 [4506b-44] **Disability Allowance.** Any member who has completed ten years or more of accredited service in the public schools, or other covered positions, of the State of Kentucky, one full year 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 provided that no member who has reached age sixty and is otherwise qualified for retirement and annuity may retire by reason of disability. The disability allowance of each member retiring for disability shall be calculated in the same manner as the allowance for a superannuated member, except that the age factor used in determining the annuity shall be the factor for age sixty for disabled members under the age of sixty. The maximum and minimum provisions that apply to members retiring for superannuation shall apply to all cases of retirement for disability, ex-

cept that in no case shall the allowance be less than fifty dollars per month. All members now retired for disability that are under the age of sixty years and are receiving less than this minimum shall be increased to said minimum beginning July 1, 1958. (1958, c. 7, § 3; 1962, c. 64, § 18; effective July 1, 1962)

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. Medical examinations shall be performed as set forth in KRS 161.410. The board of trustees shall, based on all available data, determine members eligibility to retirement by reason of disability.

(2) A member retired for disability shall 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, 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 the minimum set forth in KRS 161.600. (1962, c. 64, § 19)

Note: The 1962 amendment to KRS 161.670 takes effect July 1, 1962.

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 falisify 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.

161.705 Voluntary Contribution to System. (1) Any member of the teachers' retirement system, or the board of education employing such member, or both, may make voluntary contributions of two percent or more of such member's annual compensation to the retirement system for the benefit of such member. Such contributions shall be invested as provided in KRS 161.430.

(2) Upon retirement, any such member shall receive in addition to retirement allowances provided by law, such annuity as has been earned by the voluntary contributions made by or for such member, computed upon an actuarial basis. The member shall have the same benefit options with respect to such additional annuity as are provided in KRS 161.630, excepting as provided in subsection (3) of this section.

(3) Upon the death or withdrawal from the retirement system of any member for any reason other than retirement, such member or the estate of such member, and the board of education shall each be reimbursed respectively for any voluntary contributions made by or on behalf of such member to the retirement system. Such reimbursement shall be made in a lump sum with average earned interest or a rate of interest fixed by the retirement board. Upon death after retirement no such reimbursement shall be made. (1950, c. 79, § 2)

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 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 Fund 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.)

161.715 Pension for Certain Teachers Not Eligible for Benefits Under Teachers' Retirement System. (1) Any person who was employed as a certified teacher in the public elementary or secondary schools or state colleges of the Commonwealth of Kentucky as a regular, full-time teacher for a period of ten or more years prior to July 1, 1940, who has reached the age of seventy years as of July 1, 1962, and who is not otherwise qualified to receive a pension or annuity from the Teachers' Retirement System, shall be entitled to a payment of forty dollars per month.

(2) The provisions of this section shall not apply to any person who is receiving a pension or annuity or other grant financed in whole or in part by funds of the Commonwealth of Kentucky or

its political subdivisions except Old Age and Survivors Insurance.

(3) The terms of this section shall become effective on July 1, 1962, and payment to qualified persons shall begin at such time following that date as applications are received on forms adopted by the Board of Trustees of the Teachers' Retirement System. No payments shall be made retroactive to the receipt of such application.

(4) Persons attempting to qualify for payment under the terms of this section shall furnish such proof of age, employment and other qualifications as the board of trustees may require. The board of trustees shall be empowered to determine the eligibility of all applicants.

(5) Any unexpected funds are to be carried over without lapse into the next fiscal year. (1962, c. 140, § § 1 and 2; effective June 14, 1962)

TEACHERS' TENURE

161.720 Definitions for Teachers' Tenure Law. (1) The term "teachers" 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, § 1; 1944, c. 98)

Marshall, et al. v. Walters, 265 S. W. (2d) 787. In absence of specifications in teacher's contract specifying the school and the class of position in which he is to be employed, school authorities have authority to transfer teacher from one school or class of position to another. (March 5, 1954.)

Marshall, Superintendent, et al. v. Conley, 258 S. W. (2d) 911. Board of education has authority to transfer teachers from school to school or from position to position in the same school, even though they hold continuing contracts.

Status relating to seniority rights of school rights deals with seniority only as it affects employment and not as it affects position.

Teacher transferred to an elementary school from a high school position and who refused to accept the elementary position admittedly breached any kind of contract which he might claim for himself.

The court would not determine what kind of contract, if any, he should have been given. (June 5, 1953.)

Payne, et al. v. Stevens, 251 S. W. (2d) 469. A teacher, eligible for continuing contract under the Teachers' Tenure Act, after having taught two years under a limited contract, acquired no absolute right to a continuing contract on subsequent re-employment under a limited contract. (September 26, 1952.)

Payne, et al. v. Bush, 249 S. W. (2d) 789. A teacher, eligible for a continuing contract under the Teachers' Tenure Act, after having taught two years under a limited contract, acquires no absolute right to a continuing contract on subsequent re-employment under a limited contract. (June 20, 1952.)

Board of Education of Bath County, et al. v. Hogge, 239 S. W. (2d) 459. Provision of contract that county board of education had right to transfer school principal from one position to another or from one school to another from time to time would prevail unless it contravened statute.

When principal's continuing contract was suspended in March and was not reinstated prior to July 6 meeting of county board of education, and suspension was based on order discontinuing school which was rescinded in May, and outgoing superintendent recommended that contract be reinstated at June meeting, and motion in June to reinstate failed for lack of second, and board at July meeting acted on assumption that principal was entitled to be employed for coming year, board could not base any right to reduce principal's salary for the coming year upon mere absence of formal order reinstating the contract. (May 8, 1951.)

Redding, et al. v. Fincel, 311 Ky. 534. Where plaintiff's standard elementary teaching certificate expired on June 30, 1946, and was not renewed at beginning of following school term, teacher's tenure contract between plaintiff and city board of education entered into in October, 1942, expired and plaintiff had no further right under that contract, so that board was within its rights in terminating plaintiff's employment effective last day of the 1947-48 school term. (June 7, 1949.)

Taylor v. Hampton, 271 S. W. (2d) 887. Under KRS 161.740, tenure of teachers with seven years of consecutive service extended beyond the time that the board of education had any authority to enter into limited contract, and when after such time had elapsed, new contracts were entered into, such new contracts could only have been continuing contracts.

Cooksey v. Board of Education of Fairview Independent School District, 316 S. W. (2d) 70. Statute, entitling any teacher who has taught six years or more and is eligible for continuing contract but has not received such contract to written continuing contract if employed for school year 1955-56 did not require teaching in the six successive years immediately preceding the 1955-56 school year, and it was sufficient thereunder for teacher to (1) have taught six years, (2) hold certificate as defined in statute, and (3) be employed for school year 1955-56.

Efforts of the plaintiff in attempting to establish her rights as a teacher in district and, upon failing to do so, in attempting to mitigate damages by seeking employment elsewhere were sufficient to entitle her to salary due under contract to which she was entitled. Under such circumstances, members of the board of education were personally liable for the plaintiff's salary.

Mrs. Cooksey urges that she was entitled to at least a two-year contract under KRS 161.750 due to her 1954-55 employment. The court said since we believe that Mrs. Cooksey was entitled to a continuing contract under 161.740(d), it will be unnecessary to discuss this argument.

Lewis v. Bd. of Ed. of Johnson County, 348 S. W. (2d) 921. 1961. Finding, in teacher's action for declaration of rights under tenure law, that he had terminated contract by refusing offered suitable employment was not supported by record, which contained no record of school board action except minutes on motion that principal should be changed.

1961. Statutory method of terminating a teacher's tenure contract should be used, rather than indirect means of unworthy or undesirable reassignment. Ibid.

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 contract 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, § 2; 1944, c. 98)

Board of Education of Pike County v. Justice, 268 S. W. (2d) 648. Where a school principal had had one year's service and was retained on one-year contracts, he would be deemed, under KRS 161.750, to have held under successive two-year contracts beginning from the expiration of the first year's service.

161.740 Eligibility for Continuing Service Status; Reemployment of Those Eligible; Transfer Teachers; 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) When a teacher is recommended for reemployment after teaching four years in a district, the superintendent shall recommend said teacher for a continuing contract, and, unless the board of education by a four-fifths vote of its full membership rejects the continuing contract of the teacher, a written continuing contract shall be issued. If the board of education rejects the continuing contract of the teacher recommended, the superintendent may recommend employment of such teacher, under a limited contract for not to exceed two years, but upon subsequent reemployment only a written continuing contract shall be entered into;

(c) When a teacher has attained continuing contract status in one district and is employed in and transfers to another district, upon the recommendation of the superintendent the board of education may at the time of employment, or at any time within a two year period, declare any transfer teacher eligible for a written continuing contract and extend to such teacher such contract. If during the two year period the teacher has not received a written continuing contract and the teacher is recommended for reemployment at the end of the two year period, the superintendent shall recommend said teacher for a continuing contract and if reemployed a written continuing contract shall be issued;

(d) Any teacher who has taught six years or more and is eligible for a continuing contract but has not received such con-

tract shall, if employed for the school year 1955-56, receive a written continuing contract.

(2) 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; 1954, c. 60)

Payne, et al. v. Bush, 249 S. W. (2d) 789. A teacher, eligible for a continuing contract under the Teachers' Tenure Act, after having taught two years under a limited contract, acquires no absolute right to a continuing contract on subsequent re-employment under a limited contract. (June 20, 1952.)

Welch v. Board of Education of Magoffin County, 247 S. W. (2d) 536. Principal could not claim position as teacher when refused a principal's job because he declined the position and sought employment elsewhere.

Annual salary of $3200 paid in monthly installments mean annual salary, and ten months' work means pay for only ten months or an allocate part of the $3200. (March 28, 1952.)

Redding, et al. v. Fincel, 311 Ky. 534. Where plaintiff's standard elementary teaching certificate expired on June 30, 1946, and was not renewed at beginning of following school term, teacher's tenure contract between plaintiff and city board of education entered into in October, 1942, expired and plaintiff had no further right under the contract, so that board was within its rights in terminating plaintiff's employment effective last day of the 1947-48 school term. (June 7, 1949.)

Beverley, et al. v. Highfield, 307 Ky. 179, 209 S. W. (2d) 739. Appointment of high school principal by County Board without recommendation of Superintendent was void. Failure of Superintendent of Schools to object to appointment without her recommendation of principal under limited contract during War did not estop Superintendent from objecting to validity of appointment, where it was being used in an attempt to perpetuate appointee in such office. (March 9, 1948.)

Lone Jack Graded School Dist. v. Hendrickson, 304 Ky. 317, 200 S. W. (2d) 736. Board of Education speaks only through its minutes. Must have contract to be enforceable. It was held teacher had no contract. Action of Board was refusal of recommendation of Superintendent. (March 21, 1947.)

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.)

Taylor v. Hampton, 271 S. W. (2d) 887. Under KRS 161.740, tenure of teachers with seven years of consecutive service extended beyond the time that the board of education had any authority to enter into limited contract, and when after such time had elapsed, new contracts were entered into, such new contracts could only have been continuing contracts.

Cooksey v. Board of Education of Fairview Independent School District, 316 S. W. (2d) 70. Statute, entitling any teacher who has taught six years or more and is eligible for continuing contract but has not received such contract to written continuing contract if employed for school year 1955-56 did not require teaching in the six successive years immediately preceding the 1955-56 school year, and it was sufficient thereunder for teacher to (1) have taught six years, (2) hold certificate as defined in statute, and (3) be employed for school year 1955-56.

Efforts of the plaintiff in attempting to establish her rights as a teacher in district and, upon failing to do so, in attempting to mitigate damages by seeking employment elsewhere were sufficient to entitle her to salary due under contract to which she was entitled. Under such circumstances, members of the board of education were personally liable for the plaintiff's salary.

Mrs. Cooksey urges that she was entitled to at least a two-year contract under KRS 161.750 due to her 1954-55 employment. The court said since we believe that Mrs. Cooksey was entitled to a continuing contract under 161.740(b), it will be unnecessary to discuss this argument.

Moore v. Babb, 343 S. W. (2d) 373. 1961. The members of a county board of education who deprive a teacher of a contract to which he has acquired a right under the terms of the statutes may be held personally liable in damages for the teacher's loss of salary in the absence of estoppel or other bar and upon proper proof; the basis of personal liability is the failure to perform a ministerial duty, and the board is exempt from liability where it has paid another teacher placed in the position.

1961. A county board of education is vested with the duty and authority of administering the schools within its district, including the employment of teachers, according to the terms of the statute. Ibid.

1961. Where teacher who had taught three consecutive years was given a two-year contract and in the first year of such contract she had taught four years, the teacher had achieved "continuing service status" under statute, and when she was notified that her services would be discontinued she could maintain action against members of county board of education, individually, for damages unless one or more of the affirmative defenses should be sustained. Ibid.

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, § 4; 1944, c. 98)

Teachers to be appointed after April 1, KRS 160.380.

Board of Education of Floyd County, et al. v. Moore, 264 S. W. (2d) 292. In this case the appellee's first employment was for the school year 1950-51. The minimum term of his reemployment under provisions of KRS 161.750(c) was two years, which would have extended through the school years 1951-52 and 1952-53. Under the facts of this case, the board, upon the second employment, had no more right to employ the appellee for one year than it did for ten years. We think the word "may" has reference to the discretion of the board in employing teachers under limited contracts within the minimum and maximum limits provided by the statute.

The board had the unquestioned right to transfer appellee from position of assistant supervisor to that of teacher in the Martin High School, but it had no authority to reduce his salary for the school year 1952-53 since his employment was required to extend through that term. (December 4, 1953.)

Welch v. Board of Education of Magoffin County, 247 S. W. (2d) 536. Principal could not claim position as teacher when refused a principal's job because he declined the position and sought employment elsewhere.

Annual salary of $3200 paid in monthly installments means annual salary, and ten months' work means pay for only ten months or an allocate part of the $3200. (March 28, 1952.)

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Mrs. Cooksey urges that she was entitled to at least a two-year contract under KRS 161.750 due to her 1954-55 employment. The court said since we believe that Mrs. Cooksey was entitled to a continuing contract under 161.740(a), it will be unnecessary to discuss this argument.

Ball v. Bunch, 324 S. W. (2d) 828. The appellee held a limited teacher's certificate which entitled her to be reemployed at the same salary unless the board had given her written notice on or before March 31, its intentions not to reemploy her. The court found as a fact, upon ample evidence, that the teacher had not been so notified. The short delay in obtaining a renewal certificate from the Superintendent of Public Instruction did not, under the circumstances, as the court found, justify the Board in its action denying her the right to teach.

The motions are denied and the judgments stand.

The combined motions for an appeal from (1) a judgment for $2,160 against the Whitley County Board of Education in favor of Leila Bunch for salary as teacher for the school term 1956-57 which she would have earned if she had taught but was wrongfully denied that right, and (2) from a judgment in a consolidated action setting aside an order of the county board sustaining charges of incompetency of the appellee.

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 succeeding 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, § 5; 1944, c. 98)

Board of Education of Bath County, et al. v. Hogge, 239 S. W. (2d) 459. Provision of contract that county Board of Education had right to transfer school principal from one position to another or from one school to another from time to time would prevail unless it contravened statute.

When principal's continuing contract was suspended in March and was not reinstated prior to July 6 meeting of County Board of Education, and suspension was based on order discontinuing school which was rescinded in May, and outgoing superintendent recommended that contract be reinstated at June meeting, and motion in June to reinstate failed for lack of second, and board at July meeting acted on assumption that principal was entitled to be employed for coming year, Board could not base any right to reduce principal's salary for the coming year upon mere absence of formal order reinstating the contract. (May 8, 1951.)

Williamson v. Cassady, et al., 311 Ky. 666. Under Teacher's Retirement and Tenure Act, board of education on recommendation of county superintendent of schools had authority to transfer principal of a high school to a teaching position in another high school although it did not have authority to reduce teacher's salary. (November 18, 1949.)

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 § 6; 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 contract in any other manner than provided in this section may be suspended for not more than one year. (1942, c. 113, § 7; 1944, c. 98)

Commonwealth ex. rel. Funk, Atty. Gen. v. Robinson, 235 S. W. (2d) 780. Where teacher mailed application for teaching position in county school and County Board of Education, on recommendation of County Superintendent, employed him for coming school year and notified teacher of his employment, a binding contract existed between teacher and Board which could not terminate under statute within 30 days prior to beginning of school term, without consent of board and teacher after entering into contract was ineligible to be elected to membership in Board under statute because at time of his election he was interested in sale of services to Board, for which services school funds were expended. (December 12, 1950.)

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, § 8; 1944, c. 98)

Harper v. Carlisle County Board of Education, et al., 305 Ky. 858 205 S. W. (2d) 325. Under statute authorizing termination of a teaching contract for certain specified causes, unless the decision (of Circuit Court) is fragrantly or palpably against the evidence, the Court of Appeals may not set it aside. (June 13, 1947.)

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.)

Board of Education of Pike County v. Justice, 268 S. W. (2d) 648. Where the county board of education during the term of contract transferred the principal of a school to another position affording less compensation, the principal was entitled to receive for the rest of the term the compensation attached to the former position, but for years beyond the term was entitled only to compensation due in the new position.

Lewis v. Bd. of Ed. of Johnson County, 348 S. W. (2d) 921. 1961. Statutory method of terminating a teacher's tenure contract should be used, rather than indirect means of unworthy or undesirable reassignment.

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, § 9; 1944, c. 98)

Lewis v. Bd. of Ed. of Johnson County, 348 S. W. (2d) 921. 1961. Statutory method of terminating a teacher's tenure contract should be used, rather than indirect means of unworthy or undesirable reassignment.

Marshall, Superintendent v. Conley, 258 S. W. (2d) 911. This section deals with seniority only as it affects employment and not as it affects position.

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 immediatley 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, § 10; 1944, c. 98)

Taylor v. Hampton, 721 S. W. (2d) 887. Under KRS 161.740, tenure of teachers with seven years of consecutive service extended beyond the time that the board of education had any authority to enter into limited contract, and when after such time had elapsed, new contracts were entered into, such new contracts could only have been continuing contracts.

CIVIL SERVICE FOR NONINSTRUCTIONAL EMPLOYES OF BOARD OF EDUCATION OF CITY OF SECOND CLASS

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 dis-

trict 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 education 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 application shall determine the order in which their names shall be placed on the eligible list. The terms 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 per cent 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 examination 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 provisional 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 ef-

ficiency 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, affiliation, 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)

161.841 Retirement Plan for Noninstructional School Employes. The board of education of any independent school district embracing a city of the first class is hereby authorized and empowered to establish a retirement plan applicable to regular or full-time noninstructional employes when a majority of such employes shall file with the board a petition requesting the establishment of a retirement plan. The establishment of the plan may be affected by a resolution of the board spread upon the minutes reciting the filing of the petition and declaring the board's purpose thereby to establish and thereafter administer and operate such plan of retirement. (1950, c. 197)

PENALTIES

161.990 [4503-6; 4503-8; 4506b-50] **Penalties.** (1) Any person who willfully violates any provision of KRS 161.162 or 161.164, shall be confined in jail for not less than thirty days nor more than six months.

(2) Any teacher or employe of a district board of education who willfully violates any provisions of KRS 161.162 or 161.164 shall be ineligible for employment in the common schools for a period of five years.

(3) 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.

(4) 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.

(5) A violation of any of the provisions of KRS 161.690 is a misdemeanor and is punishable as such.

(6) 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 (6) added by 1946, c. 201, § 10; subsections (1) and (2) added by 1962, c. 244, Art. IV, § 3)

Cooksey v. Board of Education of Fairview Independent School District, 316 S. W. (2d) 70. Statute, entitling any teacher who has taught six years or more and is eligible for continuing contract but has not received such contract to written continuing contract if employed for school year 1955-56 did not require teaching in the six successive years immediately preceding the 1955-56 school year, and it was sufficient thereunder for teacher to (1) have taught six years, (2) hold certificate as defined in satute, and (3) be employed for school year 1955-56.

Efforts of the plaintiff in attempting to establish her rights as a teacher in district and, upon failing to do so, in attempting to mitigate damages by seeking employment elsewhere were sufficient to entitle her to salary due under contract to which she was entitled. Under such circumstances, members of the board of education were personally liable for the plaintiff's salary.

Mrs. Cooksey urges that she was entitled to at least a two-year contract under KRS 161.750 due to her 1954-55 employment. The court said since we believe that Mrs. Cooksey was entitled to a continuing contract under 161.740(d), it will be unnecessary to discuss this argument.

CHAPTER IX

SCHOOL PROPERTY AND BUILDINGS

162.010 Title to school property.
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162.010 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, whether by purchase or condemnation, or otherwise, the title obtained shall be in fee simple, except that title to land received from the federal government or any agency thereof can be received in other than fee simple with the approval of the Attorney General of the Commonwealth. Any reversionary interest in any land held by boards of education on June 14, 1934 shall not deprive such boards of the ownership of the buildings or other improvements thereon. (1954, c. 20, § 1; 1958, c. 136)

Commonwealth to be named as grantee in deed of land to state agency or to land paid for from state funds, KRS 56.030.

Proceeds of sale of school property may be credited to building funds, KRS 160.476, 160.477.

Textbooks are property of state, KRS 157.150.

Floyd County Board of Education v. Johnson, et al.; Johnson v. Floyd County Board of Education, 260 S. W. (2d) 217. Suit to have deed declared a mortgage. The Circuit Court, Floyd County, entered judgment adverse to purchases from purported mortgagee, and purchaser and one of the plaintiffs appealed. The Court of Appeals, Stanley, Commissioner, held that deed which appeared on its face to be absolute, but which contained recital at end of description that "if paid in 12 months from this date will be non inamided," was not sufficient to put purchaser on inquiry that conveyance was in fact a mortgage, and purchaser was entitled to protection of doctrine of estoppel afforded to innocent purchasers in such circumstances. (May 22, 1953.)

Hodges, et al. v. Edmonson County Board of Education, et al., 256 S. W. (2d) 514. Where grantor was wife conveyed realty to school district by warranty deed and consideration stated was "convenience of themselves and for benefit of said district" and granting clause recited that really was conveyed "to be used exclusively for school purposes," deed conveyed fee simple absolute rather than an easement or a determinable fee with a possibility of reverter. (March 27, 1953.)

Barren County Board of Education, et al. v. Jordan, et al., 249 S. W. (2d) 814. Where deed conveying determinable fee was executed in 1891, the 1893 statute, providing that any reversionary interest in land used for school purposes should not deprive board of education of buildings or other improvements thereon, was not applicable to permit board of education to retain title to schoolhouse on happening of condition subsequent.

Plaintiffs in quiet title action would have to rely on strength of their own title, and could not recover on weakness of defendants' title. (June 20, 1952.)

Bates v. Bates, 236 S. W. (2d) 943. Where deed provided that grantor was to have realty conveyed to trustees of public school when it ceased to be public property, option was personal to grantor and terminated at his death. (March 9, 1951.)

Cole, et al. v. Shockley, 309 Ky. 313, 217 S. W. (2d) 649. Under deed providing that land when not used for public school purposes should fall back to successor or lands from which deed was made, on abandonment of land for school purposes the school house and improvements did not revert to grantor's successor but county board of education was entitled to remove school house and other improvements. (February 4, 1949.)

Lykins v. Wolfe County Board of Education, et al., 307 Ky. 24, S. W. (2d) 717. Schools and School Districts—Where conveyance of half-acre tract to school trustees contained reversionary clause and subsequent conveyances of the large tract of land, the description of which embraced the half-acre conveyed to the school, expressly excluded the half-acre tract, on abandonment of property for school purposes, the school lot reverted to original grantor rather than to then owner of the large tract. KRS 162.010. (March 19, 1948.)

Webster County Board of Education, et al. v. Wynn, et ux., 303 Ky. 110, 196 S. W. (2d) 982. In absence of affirmative showing of purpose or plan of county board of education to erect new school building within reasonable time on school lot, from which original building, sold by board, was removed, stronger and superior presumption against such purpose or plan must prevail. (October 18, 1946.)

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 condition 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.

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 manifest-

ing 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, 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. (une 14, 1929.)

Binder v. County Board of Education of efferson 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 purpose. (April 20, 1928.)

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 original 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 independent 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 and 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. Statutes 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 transferred. Since in this case it did not, the property must be divided between districts on basis of census. (Dec. 17, 1940.)

Taylor v. Parker, 302 S. W. (2d) 125. Under the statute requiring school board to advertise for bids on purchase of supplies or equipment costing more than $250, mailing of invitations to bid to six or seven automobile dealers, who had registered as being

interested in sale of automotive equipment to the state, did not constitute "advertising" for bids for purchase of three school buses, but did substantially accomplish the purpose of the statute.

162.030 [4399-21] **Condemnation of Property for School Purposes.** Each board of education may, when unable to make a contract satisfactory to the board with the owner for the purchase of real estate to be used for school purposes, initiate condemnation proceedings under any of the methods of condemnation authorized by KRS 416.010 to 416.080; KRS 416.120; and KRS 416.230 to 416.310; and the title to land so obtained shall be vested in fee simple. (1954, c. 20, § 2)

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 next 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 enhancement 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 public 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 con-

templated 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.

Clemons, et al. v. Bottom, et al., 262 S. W. (2d) 85. Where a school had been built at disputed location and its construction had been approved by Superintendent of Public Instruction, evidence was sufficient to establish that board's closing of school was in exercise of its good faith, judgment and not an abuse of its discretion. (October 16, 1953.)

Perry County Board of Education, et al. v. Deaton, et al., 311 Ky. 227, 223 S. W. (2d) 882. County boards of education are given broad discretion under statute in the selection of school sites and in the establishment of schools as they deem necessary for the promotion of education and the general welfare of the pupils, KRS 160.160, 160.290.

Where county board of education has obtained approval of superintendent of public instruction of its plans for a new building, courts will not interfere with proposed plans unless there is positive proof of fraud, collusion or a clean abuse of discretion. (October 18, 1949.)

Whitt, et al. v. Reed, et al., 239 S. W. (2d) 489 (Graves County). In action for injuries sustained by school pupil on school premises, petition alleging that defendants school superintendent, principal, maintenance supervisor and janitor were negligent in performance or non-performance of their ministerial duties stated cause of action against them as individuals.

In action for injuries sustained by a school pupil on school premises, petition alleging that county board of education, members, sued as individual defendants, violated certain statutes in undertaking to authorize school building alterations, which resulted in defective condition causing injuries, stated cause of action against them on ground that their failure to perform mandatory legal duties was a cause of injuries.

Public Officers, empowered to appoint their subordinates, are bound to exercise ordinary care in selecting proper persons for various positions, to superintend their conduct, and to assign them no tasks for which they are known by officers to be incompetent and in execution of which it is reasonable to infer that disastrous consequences will result. (April 24, 1951.)

162.070 [4399-48] **Contracts for Buildings, Improvements and Materials to be Let on Competitive Bidding; When Advertisement not Required.** The contracts for the erection of new school buildings and additions and repairs to old buildings, except repairs not exceeding one hundred fifty dollars, 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 two hundred fifty dollars, and shall accept the bid of the lowest and best bidder, but the board may reject any and all bids. In independent school districts of cities of the first class and in county school districts of counties containing

a city of the first class, no advertisement for bids for repairs shall be necessary unless the amount involved exceeds two thousand dollars, and no advertisement for bids for supplies and equipment shall be necessary unless the amount involved exceeds one thousand dollars. (1954, c. 172)

Prevailing wages to be paid on public works, KRS 337.510.

Whitt, et al. v. Reed, et al., 239 S. W. (2d) 489 (Graves Co.). In action for injuries sustained by school pupil on school premises, petition alleging that defendants school superintendent, principal, maintenance supervisor and janitor were negligent in performance or nonperformance of their ministerial duties stated cause of action against them as individuals.

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Goin v. Board of Education, City of Frankfort, 298 Ky. 645. Building contract which required contractor to furnish all labor and material for state price and to protect work and owner's property from loss in connection with contract, and providing for installment payments, but which made no provisions 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 pro-

ceeds 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 per cent, 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) 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. (1962, c. 180, § 1; effective March 21, 1962)

School building funds may be established with special taxes, KRS 160.476, 160.477.

Board of Education of Louisville, et al. v. City of Louisville, et al., 258 S. W. (2d) 707. Statute making school bonds obligation of city where city school district embraces city cannot be applied where city boundaries extend beyond boundaries of school district; therefore, bonds are obligations of school district, only property within district may be taxed, and only voters within district may vote on question of issuance of bonds.

Where city school district does not embrace all of city, expenses of holding election on question of issuance of bonds for school purposes must be borne by fiscal court. (May 29, 1953.)

Goins, et al. v. Jones, et al., 258 S. W. (2d) 723. Courts may not interfere with a proposed plan of county board of education for site for new school building, unless there is shown a clear abuse of the discretion vested in the board by statute. (May 29, 1953.)

Suratt, et al. v. Board of Education of City of Ashland, 231 S. W. (2d) 88. Where ordinance provided for issuance of school improvement bonds in the amount of $1,000 each, to mature in not exceeding 40 years but resolution adopted by Board of Education provided for issuance of serial bonds, resolution did not comply with terms of ordinance calling for election of bond question and bonds were invalid. (June 20, 1950.)

Howard, et al. v. Board of Education of Harlan Independent School District, 311 Ky. 130, 223 S. W. (2d) 721. Where a resolution providing for school bond election stated bonds should be callable at any time before maturity within discretion of board of education, board was without authority to omit element of callability in resolution providing for issuance and had no right to sell non-callable bonds. (October 11, 1949.)

City of Louisville, et al. v. Board of Education of Louisville, 302 Ky. 647, 195 S. W. (2d) 291. Sec. 162.090 (2) KRS valid bonds of boards of education of first and second class cities charge against city. (June 21, 1946.)

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 districts 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 adjusted by court of competent jurisdiction before bonds may be issued. (December 15, 1936.)

Molette v. Board of Education of Van Lear Graded District, 260 Ky. 737. Upholding a bond election and interpreting and clarifying in detail the 1934 statutes in connection with holding bond elections in independent district. (October 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 Districts.—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 Education of City of Russellville, 226 Ky. 476. Statutes, Supplement 1928, section 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. (November 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. (November 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 debts, 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.

Board of Education of Louisville v. Williams, 256 S.W. (2d) 29. A high school stadium is not a school building within the meaning of statutes setting up special taxes and special bond issues for school building, so that the expenditure of funds could not be used to repair a stadium.

City of Louisville et al. v. Kesselring, 257 S.W. (2d) 599. In issuing serial bonds as opposed to term bonds, KRS 165.080 does not require that the complete schedule of serial maturities be set out in the ordinance proposing an election on the question of issuing bonds.

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.

Suratt, et al. v. Board of Education of City of Ashland, 231 S. W. (2d) 88. Where ordinance provided for issuance of school improvement bonds in the amount of $1,000 each, to mature in not exceeding 40 years but resolution adopted by Board of Education provided for issuance of serial bonds, resolution did not comply with terms of ordinance calling for election of bond question and bonds were invalid. (June 20, 1950.)

Howarde, et al. v. Board of Education of Harlan Independent School District, 311 Ky. 130, 223 S. W. (2d) 721. Where a resolution providing for school bond election stated bonds should be callable at any time before maturity within discretion of board of education, board was without authority to omit element of callability in resolution providing for issuance and had no right to sell non-callable bonds. (October 11, 1949.)

City of Louisville, et al. v. Board of Education of Louisville, 302 Ky. 647, 195 S. W. (2d) 291. Sec. 162.090 (2) KRS valid bonds of boards of education of first and second class cities charge against city. (June 21, 1946.)

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. (December 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. (November 19, 1935.)

Katterjohn v. Board of Education of the City of Paducah, 202 Ky. 609. 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. (Octobr 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. (November 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. (December 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 constitutional provision is simply a limitation on the legislative power, and not a grant of power to the municipality. (November 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.

Note: KRS 160.150 was repealed by 1946, c. 36.

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 extinguishing 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.

City of first class may set apart land for municipal university, KRS 165.060.

Goins et al. v. Jones et al, 258 S. W. (2d) 723. Courts may not interfere with a proposed plan of county board of education for site for new school building, unless there is shown a clear abuse of the discretion vested in the board by statute. (May 29, 1953.)

Fendley et al. v. Board of Education of Oldham County School District, 240 S. W. (2d) 837. Question, which was submitted to voters and affirmatively answered, relative to levying of special school building tax rate of not less than five cents nor more than thirty-nine cents on each $100 of property valuation, was not improper because it failed to specify particular rate which school board was authorized to fix annually.

It was not invalid for failure to specify duration of newly established tax rate, and levy of tax was not limited to 30-year liquidation period of revenue bonds which might have been issued.

It did not limit newly established tax rate to any particular project and put voters on notice that they were asked to approve such increase as might be necessary to carry out effective school plans for indefinite number of years. (June 22, 1951.)

Bell, et al. v. Board of Education of Shelby County, 308 Ky. 848, 215 S. W. (2d) 1007. Undertaking by county board of education to erect a new high school building and issue revenue bonds to finance the project without submitting revised financial program in the form of an amended or supplemental budget to State Board of Education and obtaining its approval thereof was without legal authority and subject to injunction. (December 17, 1948.)

Fyfe, et al v. Hardin County Board of Education, 305 Ky. 589, 205 S. W. (2d) 165. Where Board of Education of county concluded that it was necessary to enlarge and improve school facilities of county . . . . and board requested Fiscal Court to cooperate with it in issuance of school revenue bonds, court acted without authority in refusing to issue bonds merely because court disagreed with board as to the need for new school buildings. (October 17, 1947.)

Board of Education of City of Catlettsburg, et al. v. City of Catlettsburg, et al., 275 Ky. 797. Evidence held to authorize findings that the particular money claimed by the school board was a gift and hence need not be paid to board of education. (November 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 all 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.)

Ranier v. Board of Education of Prestonsburg, Ind. Sch. Dist., 273 S. W. (2d) 577. A school auditorium-gymnasium was a school building within the meaning of KRS 160.477 and 162.120-162.300.

Where an independent school district and a county school district contemplated a merger and the city located within the independent school district was to issue school building revenue bonds to pay the cost of a school auditorium-gymnasium, the city, which was merely a conduit through which the independent school acted to have the bonds issued and sold, had no discretion in the matter and was required to cooperate with the independent school district in the issuance and sale of the bonds.

Where the city located within an independent school district was to issue school building revenue bonds to pay the cost of constructing a school auditorium-gymnasium, merger of the independent school district with the county school district would not affect the validity of the bonds, which were to be secured by a first lien on the building, or the right of the bondholders to enforce their lien upon the auditorium-gymnasium.

Wagner v. Fiscal Court of Jessamine County, 306 S. W. (2d) 288. A bondholder was not entitled to attack the validity of a proposed bond issue for the construction of a high school building on the ground that the school board did not have adequate sources of revenue to meet the combined requirements of the old and new bond issues where the issues were made in accordance with the plans whereby the building was leased to the school board of the fiscal court for one year with an option to renew for successive one-year periods. Under such a plan the bondholder was not concerned with the future financial status of the school system.

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.

Goins et al. v. Jones et al., 258 S. W. (2d) 723. Courts may not interfere with a proposed plan of county board of education for site for new school building, unless there is shown a clear abuse of the discretion vested in the board by statute. (May 29, 1953.)

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.

Carter et al. v. Taylor, Judge, et al., 231 S. W. (2d) 601. Where 150 county high school pupils had been cared for by contract with independent school board and by maintaining county high school with elementary grade pupils in inconvenient part of county, and county had existing bonded debt of $225,000 and board of education a debt of nearly $100,000, but more than enough money was available for servicing debts and meeting obligations for new school, approval of plan by which board of education and fiscal court proposed to erect high school and issue $250,000 in bonds payable from rents received annually from board over 20 years period was not abuse of discretion. (July 6, 1950.)

Morgan, et al. v. Fayette Boaard 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.)

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.)

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 achitect, KRS 322.360.

Goins et al. v. Jones et al., 258 S. W. (2d) 723. Courts may not interfere with a proposed plan of county board of education for site for new school building, unless there is shown a clear abuse of the discretion vested in the board by statute. (May 29, 1953.)

Bell, et al. v. Board of Education of Shelby County, 308 Ky. 848, 215 S. W. (2d) 1007. Undertaking by county board of education to erect a new high school building and issue revenue bonds to finance the project without submitting revised financial program in the form of an amended or supplemental budget to State Board of Education and obtaining its approval thereof was without legal authority and subject to injunction. (December 17, 1948.)

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 per cent 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.

Board of Education of Fayette County et al. v. Board of Education of Lexington Independent School District et al., 250 S. W. (2d) 1017. Favorable vote on question of levying special school building tax in county school district merely granted authority to taxing power to levy tax in addition to maximum school levy provided by statute, and did not impose a tax in future.

Favorable vote on question of levying special school building tax in county school district to pay rentals for school buildings to be erected and financed by fiscal court by issuing revenue bonds did not create an indebtedness and such tax was leviable each year, only upon property within the district at the time annual levy was made, and property transferred to city school district, after special tax was voted, was not liable for special tax levied after transfer.

City school district to which territory was transferred from county school district was not liable for any part of such revenue bonds under statute providing for assumption of proportional part of indebtedness, since revenue bonds did not constitute an indebtedness of county school district. (June 20, 1952.)

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 per cent 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.

Fendley et al. v. Board of Education of Oldham County School District, 240 S. W. (2d) 837. Question, which was submitted to voters and affirmatively answered, relative to levying of special school building tax rate of not less than five cents nor more than thirty-nine cents on each $100 of property valuation, was not improper because it failed to specify particular rate which school board was authorized to fix annually.

It was not invalid for failure to specify duration of newly established tax rate, and levy of tax was not limited to 30-year liquidation period of revenue bonds which might have been issued.

It did not limit newly established tax rate to any particular project and put voters on notice that they were asked to approve such increase as might be necessary to carry out effective school plans for indefinite number of years. (June 22, 1951.)

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 these sections.

Fyfe, et al. v. Hardin County Board of Education, 305 Ky. 589, 205 S. W. (2d) 165. Where Board of Education of county concluded that it was necessary to enlarge and improve school facilities of county . . . and board requested Fiscal Court to cooperate with it in issuance of school revenue bonds, court acted without authority in refusing to issue bonds merely because court disagreed with board as to the need for new school buildings. (October 17, 1947.)

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.)

162.300 [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."

Bell, et al. v. Board of Education of Shelby County, 308 Ky. 848, 215 S. W. (2d) 1007. Undertaking by county board of education to erect a new high school building and issue revenue bonds to finance the project without submitting revised financial program in the form of an amended or supplemental budget to State Board of Education and obtaining its approval thereof was without legal authority and subject to injunction. (December 17, 1948.)

Fyfe, et al. v. Hardin County Board of Education, 305 Ky. 589, 205 S. W. (2d) 165. Where Board of Education of county concluded that it was necessary to enlarge and improve school facilities of county . . . and board requested Fiscal Court to cooperate with it in issuance of school revenue bonds, court acted without authority in refusing to issue bonds merely because court disagreed with board as to the need for new school buildings. (October 17, 1947.)

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., 255 447, 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.)

Wagner v. Fiscal Court of Jessamine County, 306 S. W. (2d) 288. A bond holder was not entitled to attack the validity of a proposed bond issue for the construction of a high school building on the ground that the school board did not have adequate sources of revenue to meet the combined requirements of the old and new bond issues where the issues were made in accordance with the plans whereby the building was leased to the school board of the fiscal court for one year with an option to renew for successive one-year periods. Under such a plan the bond holder was not concerned with the future financial status of the school system.

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 convenant 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. The 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 twenty-five per cent of the contract price for the completion of the work in the manner and within the time set out in the contract.

162.330 [4535cc-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 of School Buildings by Cities.**

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., 255 447, 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.)

Wagner v. Fiscal Court of Jessamine County, 306 S. W. (2d) 288. A bond holder was not entitled to attack the validity of a proposed bond issue for the construction of a high school building on the ground that the school board did not have adequate sources of revenue to meet the combined requirements of the old and new bond issues where the issues were made in accordance with the plans whereby the building was leased to the school board of the fiscal court for one year with an option to renew for successive one-year periods. Under such a plan the bond holder was not concerned with the future financial status of the school system.

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 convenant 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. The 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 twenty-five per cent of the contract price for the completion of the work in the manner and within the time set out in the contract.

162.330 [4535cc-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 of School Buildings by Cities.**

The governing body of a state educational institution erecting a building or buildings 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 162.190 that provides that the bonds shall be payable solely from the revenue derived from the particular building or buildings thus erected and also except that part of KRS 162.170 that requires compliance with KRS 162.160. When so applied these 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 KRS 162.280" means "KRS 162.350 to 162.380." (1958, c. 147, Sec. 1)

162.360 [4535M-8] **Revenue of Building; How Fixed; Use.** The governing body of a state educational institution erecting a building or buildings and appurtenances under the provisions of KRS 162.340 shall, by resolution, provide that the bonds shall be payable, solely from the revenues of such building or buildings, provided, said governing body may in its discretion, by said resolution, also provide that the bonds shall be payable from the revenues of any other building or buildings theretofore or as may be thereafter erected and used, in connection with the institution for educational purposes provided, further, any such provision for the payment of the bonds from the revenues of such other building or buildings theretofore erected shall be subject to and in all respects in full conformity and compliance with the rights of the holders of any bonds or obligations payable from the revenues of such other building or buildings theretofore issued by the governing body then outstanding. The resolution shall fix the initial minimum rents, tolls, fees, and other charges to be imposed in connection with the services furnished by the building or buildings to be erected and may also provide that the governing body of the institution shall monthly as the service accrues pay from the current funds of the institution or from student

fees, or both, into the special fund provided by KRS 162.230 as that section is made applicable by KRS 162.350 a minimum amount representing the reasonable cost and value of any service rendered to the educational institution by such building or buildings in furnishing any educational facilities in the operation of the educational institution. The resolution shall fix the extent of the pledge of revenues from such other building or buildings toward the payment of the bonds and interest thereon and may specify the terms and conditions upon which additional bonds may be thereafter issued and sold ranking on a parity with and payable from the same source as the bonds authorized by such resolution, and such additional parity bonds may thereafter be so issued and sold to pay all or any part of the cost of building or buildings and appurtenances. The resolution shall definitely fix the minimum amount of revenues necessary to be set apart on or before stated intervals and applied to the payment of the principal and interest on the bonds and the balance of the income and revenues shall be set aside as a proper operation and maintenance fund, including a sufficient sum to pay the cost of insuring the building or buildings against loss or damage by fire and windstorm or other calamity as may have been stipulated in the resolution or resolutions authorizing the bonds. The charges for the services from the building or buildings, together with the available revenues of any other building or buildings pledged to the payment of said bonds and interest thereon, shall be sufficient at all times to provide for the payment of such interest and to create a sinking fund to accomplish retirement of such bonds at or before maturity, and to pay the current operation and maintenance expenses of the building or buildings to the extent such expenses are not otherwise provided. The charges shall be revised from time to time so as to produce these amounts. (1958, c. 147, § 2)

162.370 [4535M-9] **Maintenance Fund Surplus; Disposition.** If a surplus is accumulated in the maintenance fund equal to the cost of maintaining the building or buildings 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 or buildings 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 or buildings. (1958, c. 147, Sec. 3)

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 as to both principal and interest from the revenues as pledged for that purpose. 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. (1958, c. 147, § 4)

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 maximum 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 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.

162.510 Kentucky Public School Authority; Public Corporation. There shall be an agency and instrumentality of the Commonwealth for the purpose of assisting the boards of education of any county or independent school districts, upon requests of such boards, in the financing of public school building projects and undertakings; and the same is hereby created and established as a public corporation under the name Kentucky Public School Authority, with perpetual succession, and with power in that name to contract and be contracted with, sue and be sued, have and use a corporate seal, and exercise the usual powers of private corporations except as expressly limited in KRS 162.510 to 162.620. (1960, c. 81, § 1; effective June 16, 1960)

162.520 Definitions for KRS 162.510 to 162.620. As used in KRS 162.510 to 162.620, the following terms and words have the follow-

ing respective meanings, unless another meaning is clearly indicated by the context:

(1) "Authority" means the Kentucky Public School Authority established by KRS 162.510 to 162.620;

(2) "Department" means the State Department of Education;

(3) "Superintendent" means the Superintendent of Public Instruction;

(4) "Board of education" means the governing body of a county school district, or of an independent school district, for which the authority issues its revenue bonds pursuant to KRS 162.510 to 162.620;

(5) "Project" means any undertaking to provide for a board of education any school buildings, facilities, improvements, and appurtenances and may include not only such as are authorized in KRS 162.120 to 162.300, but also those for any purpose enumerated in KRS 160.477 (1) (a);

(6) "Lease" or "lease instrument" means a written instrument for the leasing of one or more school projects executed by the authority as lessor and a board of education as lessee, conforming to the specifications set forth in KRS 162.140;

(7) "Bonds" or "bonds of the authority" means bonds issued by the authority under KRS 162.510 to 162.620, payable as to principal and interest solely from rentals received from a board of education pursuant to a lease. (1960, c. 81, § 2; effective June 16, 1960)

162.530 Membership; succession; quorum; compensation; offices; register of membership; official records; regulations; meetings. (1) The authority shall be composed of the superintendent, three staff members or employes of the department, and the assistant attorney general assigned to the Department of Education. The membership shall initially be composed of the superintendent, the Assistant Superintendent for Business Administration, the Attorney General or his designated assistant, the Director of the Division of Finance, the Director of the Division of Buildings and Grounds, as constituted on June 16, 1960, and their successors in such offices or positions.

(2) In the event of reorganization of the department in such manner that the positions of any or all of the four members other than the superintendent shall cease to exist under the titles herein recited, the succession as to the then incumbent in each position so

ceasing to exist shall devolve upon a staff member or employe of the department performing one or more of the same or similar functions, as designated by order of the superintendent, made in writing, concurred in by the Commissioner of Finance and authorized by the Governor as provided in KRS 12.030, and filed with the secretary of the authority. Until the effective date of any such designation, the incumbent may, unless otherwise specifically ordered in a writing signed by the superintendent and filed in the office of the secretary of the authority, continue to serve as a member of the authority in all respects as if such reorganization had not been initiated. If any of the officers of the authority whose signatures or facsimiles thereof, appear on any bonds of the authority, or on any interest coupons appurtenant thereto, or on any other instruments or documents pertaining to the functions of the authority, shall cease to be such officers before delivery of the bonds, or before the effective date or occasion of such instruments or documents, the signatures, and facsimiles thereof, shall nevertheless be valid for all purposes the same as if the officers had remained in office until such delivery or effective date or occasion.

(3) Any three members of the authority shall constitute a quorum for the transaction of business at any meeting convened as hereinafter set forth. The superintendent shall be the chairman. The authority shall elect from its membership a vice chairman; and shall elect a secretary, and an assistant secretary, a treasurer, and an assistant treasurer, each of whom may be a member of the authority or an employe of the department, or a person otherwise employed for such position. The duties of such officers shall be as the authority may prescribe.

(4) The members and officers of the authority shall receive no compensation for their services, except that the secretary, assistant secretary, treasurer and assistant treasurer, or any of them, if employed by the authority otherwise than from among the employes of the department, shall receive such compensation as may be fixed from time to time by the authority, the same to be paid from the budgeted funds of the department.

(5) The authority shall maintain an office and shall at all times keep therein a complete official record of all its actions and proceedings. Office accommodations, including secretarial and telephone service, shall be provided to the authority by the depart-

ment, and the expense thereof shall be paid by the department from its budgeted funds.

(6) Each change in the membership of the authority, whether by succession in an existing position, or as provided in subsection (2), shall be entered by the superintendent in a register of membership which shall at all times be maintained in the office of the authority as an official record subject to public inspection. Any actions and proceedings of the authority, appearing from its records to have been had or taken by the person or persons shown by the register of membership to have been the proper person or persons at the time of such action or proceedings, shall be the regular and official actions or proceedings of the authority, and shall be binding upon the authority. The secretary or assistant secretary shall, upon request, issue a certificate under the seal of the authority showing the members and officers of the authority as of any specified date; and any persons may accept and rely thereon.

(7) The authority may prescribe and change from time to time reasonable administrative rules for the furnishing of certified copies of any official records of its actions and proceedings; and may prescribe reasonable fees therefor not to exceed ten per cent above the costs and expenses of making and authenticating the same as determined or estimated by the authority; and all such fees shall be paid into a revolving fund for the continuation of such service on a basis of self-sustaining as possible.

(8) The authority may adopt rules and regulations for the conducting of its business and affairs, subject to the provisions of KRS Chapter 13.

(9) The authority may adopt by-laws relating to its organization and internal management, and may alter the same at will. Through its by-laws, or by resolution, it shall establish stated times and places for regular meetings; and may adjourn the same from time to time. Special meetings may be convened upon written or oral call of the chairman, vice-chairman, or secretary, upon reasonable notice; and any absent member may waive notice orally or in writing either before, at, or after any special meeting, as may be noted in the minutes. If a quorum be present at any special meeting, and it shall appear from the minutes that reasonable notice was given to absent members, or waived by them, or the minutes subsequently consented to by them, any business transacted or action taken thereat shall be as fully regular and official as if transacted

or taken at a regular meeting or an adjournment thereof. (1960, c. 81, § 3; effective June 16, 1960)

162.540 Interpretation of Terms in KRS 162.120 to 162.300, When Applied to KRS 162.510 to 162.620. Upon receiving a request in writing from a board of education, the authority may, in its discretion, assist such board of education in financing any project by acting in the capacity and manner authorized to be performed by cities under KRS 162.120 to 162.290, and by counties under KRS 162.300. When applied to the authority, KRS 162.120 to 162.300 shall be so read that the following terms and passages have the following respective meanings or interpretations:

(1) "City" or "county" means "authority";

(2) "City clerk" or "county clerk" means "secretary or assistant secretary of the authority";

(3) "Governing body of the city" or "fiscal court" means "authority";

(4) "Mayor or chairman of the board of trustees" or "county judge" means "chairman or vice-chairman of the authority";

(5) "Ordinance" in the case of a city, or "resolution" in the case of a county, means a resolution of the authority;

(6) "Building and appurtenances" means "project" as defined in subsection (5) of KRS 162.520;

(7) The last sentence of KRS 162.190 shall read, "It shall be plainly stated on the face of each bond that it was or is issued under the provisions of KRS 162.510 to 162.620 (omitting reference to KRS 162.150 to 162.280 as such), and that it does not constitute an indebtedness of the authority or of the Commonwealth";

(8) KRS 162.200 is modified to permit use of money received from bonds for the additional purpose of paying reasonable expenses incurred in the authorization, advertising, preparation, sale and delivery of bonds, and may include a fee contracted to be paid to a fiscal agent for financial advice and services if the contract or agreement therefor shall have been approved by the board of education and by the authority;

(9) As used in KRS 162.140, "lease" shall have the meaning defined in subsection (6) of KRS 162.520, and the same shall be recorded or filed for recording in the office of the clerk of the county court of the county in which the project is situated, as evidenced

by a written receipt or acknowledgement of filing issued by such clerk, or by a copy of the lease attested or certified by such clerk as being of record in his office. It shall be the duty of the secretary of the authority to obtain such evidence before delivery of the bonds to a purchaser thereof; but failure to obtain the same shall not affect the validity of the bonds in the hands of any purchaser or holder;

(10) KRS 162.240 shall not apply; and the following provisions shall govern in lieu thereof:

"One or more depositories and paying agents may be selected and designated by the board of education, subject to the approval of the authority, which approval shall not unreasonably be withheld; but each depository and paying agent shall be a financial institution, within or without the Commonwealth, which is a member of Federal Deposit Insurance Corporation. All deposits of sinking funds and of bond proceeds shall continuously be secured by a pledge to the authority of direct obligations of the United States, exclusive of accrued interest, at all times at least equal to the balance on deposit in the fund or account, such securities to be deposited with the authority or held by a trustee or agent designated by the authority; provided, however, in lieu of requiring such security the authority may in its discretion invest, or cause to be invested and reinvested, any moneys in direct obligations of the United States until such time as cash funds may be needed, and the authority may prescribe for the custody and safekeeping of such securities. When cash funds are needed, the authority shall direct the conversion into cash of such securities, or a sufficient portion thereof, and may require that the same be secured until disbursement, as herein provided. All income from such securities shall accrue to the board of education, but may be retained by the authority and credited upon any rental obligation of the board of education under the lease, or applied to supplement bond proceeds if the same should for any reason turn out to be insufficient to defray the costs and expenses of the project." (1960, c. 81, § 4; effective June 16, 1960)

162.550 Ownership of Certain Moneys Determined. Moneys received by the authority as rentals under any lease, and from the sale of bonds, are declared not to be funds of the Commonwealth but shall be corporate funds of the authority to be held, administered, invested and disbursed as trust funds under the terms, provisions,

pledges, covenants, and agreements set forth in its leases and bond resolutions and bonds. (1960, c. 81, § 5; effective June 16, 1960)

162.560 Officers of Authority to be Bonded. Officers, employes and agents of the authority having custody of money shall at all times be bonded to the maximum amount reasonably anticipated to be held at any one time; and each bond shall have good corporate surety, provided by a surety company authorized to do business in the Commonwealth, to be approved in each instance by the authority. Premiums for such surety shall be paid from the budgeted funds of the department. (1960, c. 81, § 6; effective June 16, 1960)

162.570 Authority Required to Record All Financial Transactions; Report to Governor. The authority shall at all times keep and maintain books of record and account reflecting accurately all its financial transactions, and the same shall be open to public inspection at all reasonable times. The books of record and account shall be audited annually by the auditing staff of the department, and a copy of the audit report shall be filed with the Commissioner of Finance. With the approval of the Governor, the Commissioner of Finance may direct that the financial affairs of the authority be audited by independent certified public accountants, and costs thereof shall be paid from the State Treasury. The authority shall annually submit to the Governor a written report of its activities; and a copy of each report shall be filed with the clerk of each house of the General Assembly on the first day of each regular biennial session. (1960, c. 81, § 7; effective June 16, 1960)

162.580 Duty of Authority as to Each Bond Issue. In connection with each bond issue of the authority, it shall be the duty of the authority:

(1) To require the board of education to insure the project to its full insurable value, or to the amount of the bonds outstanding from time to time, whichever is the less, against the hazards covered by the Standard Fire Insurance Policy with standard endorsement of "extended coverage"; and to require that a copy of each policy be delivered to the authority for inspection and for its records;

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

(3) To furnish to the auditing staff of the department a summary identification and description of each issue, and to request that the financial records of the board of education relating thereto be audited as a part of the annual audit of the board of education, and that a separate statement or report thereof be filed with the authority;

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

(5) In the event of failure to receive from the board of education satisfactory evidence that sufficient funds have been transmitted to the authority, or will be so transmitted, for paying bond principal and/or interest when due, as provided in the lease, to notify and request that the department withhold from the board of education a sufficient portion of any undisbursed funds then held or set aside or allocated to it, and to request that the department transfer the required amount thereof to the authority for the account of the board of education. (1960, c. 81, § 8; effective June 16, 1960)

162.590 Duty of Department Upon Request of Authority. It shall be the duty of the department, upon written request of the authority:

(1) To cause its auditing staff to audit the financial records of a board of education relating to any identified and described bond issue of the authority, as an incident to the department's next ensuing annual audit of such board of education, and each subsequent annual audit thereof; and to provide to the authority a statement or report thereof;

(2) Upon receiving a notification and request from the authority as described in KRS 162.580, to ascertain whether the lease of the board of education has been renewed and is in force in accordance with its terms; and if the same is ascertained to be in force, to withhold from the board of education a sufficient portion of any undisbursed funds then held or set aside or allocated by the department for the board of education, and to comply with the terms of the notification and request of the authority, for the account of said board of education. (1960, c. 81, § 9; effective June 16, 1960)

162.600 Bonds to Issue in Name of Authority; Identification;

Investment Designation. (1) Bonds of the authority shall be issued in the name of the authority, shall be designated "School Building Revenue Bonds," or, if appropriate, "School Building Revenue Refunding Bonds," and shall additionally be identified by the name of the board of education executing the lease. If the authority shall issue more than one series of bonds for the same lessee from time to time, each series, including the first or subsequent to the first, shall additionally be identified distinctly by alphabetical or chronological designation, by date of the bonds, or otherwise as the authority may determine.

(2) For the purposes of determining any limit prescribed by any law for investment of any public funds, or funds of banks, trust companies, insurance companies, building and loan associations, credit unions, pension and retirement funds, and fiduciaries, in obligations of a single obligor, bonds issued by the authority pursuant to KRS 162.510 to 162.620 shall not be deemed to be bonds or obligations of the same obligor except to the aggregate of all series of bonds involving leases of a single board of education.

(3) Bonds issued by the authority under the provisions of KRS 162.510 to 162.620 are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, trustees, and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of a similar nature may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or other obligations of the Commonwealth is now or may hereafter be authorized by law. (1960, c. 81, § 10; effective June 16, 1960)

162.610 Transactions of Authority Exempt From Other Control. The authority and all of its transactions, activities and proceedings in the authorization and issuance of its bonds, execution of leases, accepting conveyances of property, making conveyances of property, and otherwise, shall be exempt from approval, control and supervision of the State Property and Buildings Commission as might otherwise be applicable under KRS 56.440 to 56.580, and

from all provisions relating to custodianship by the Secretary of State of title documents, leases, abstracts of title, maps and other records as provided in KRS 56.020 to 56.320 . Conveyances of property to or by the authority shall not be deemed to be conveyances to or by the Commonwealth. (1960, c. 81, § 11; effective June 16, 1960)

162.620 Sale of Bonds; Conditions. Bonds of the authority shall be sold only upon the basis of sealed bids or proposals, publicly solicited, received, opened and acted upon. The "publication area," as that term is used in KRS Chapter 424, shall not be deemed to be the area within which the office of the authority is situated, but shall be deemed to be the "publication area" of the board of education executing the lease. Each sale shall be publicly advertised by means of a notice conforming to the provisions of KRS 424.140(5), and the same shall be published at least one time, at least seven days in advance of the date set forth for opening bids, in a daily newspaper having bona fide general circulation throughout the Commonwealth. If such publication is made, it shall be sufficient for publication in the "publication area" to be made only on time, at least seven days in advance of the date set forth for the opening of bids, notwithstanding provisions for publication more often as provided in KRS Chapter 424. If a copy of the sale notice be delivered or transmitted in good faith to the qualified newspaper of the "publication area" in time for publication in an issue thereof published seven days or more in advance of the date set forth for the opening of bids, and with direction for publication therein, any failure of such newspaper to make publication as directed shall not invalidate the sale of the bonds by the authority on the designated date, nor require postponement or cancellation thereof. (1960, c. 81, § 12; effective June 16, 1960)

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

163.020 Federal acts relating to vocational education accepted.
163.030 State Board of Education authorized to carry out vocational education program.
163.036 Kentucky Industries for the Blind established; transfer of personnel, functions and assets of workshop for the blind.
163.040 Acceptance and expenditure of appropriations and other funds.
163.050 Personnel; traveling expenses; rules and regulations.
163.070 State treasurer custodian of funds.
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163.110 Declaration of intent for KRS 163.110 to 163.180.
163.120 State rehabilitation agency.
163.130 Rehabilitation services, persons entitled to receive.
163.140 Authority of State Board of Education.
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163.180 Gifts may be received.
163.220 Division of services for the blind.
163.230 Advisory committee, for Division of Services for the Blind.
163.240 Budget and appropriations for vocational rehabilitation services for the blind.

163.020 [4526-1] **Federal Acts Relating to Vocational Education 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, and all subsequent Acts relating to vocational education as defined herein, the purpose of which is to provide training, develop skills, abilities, understanding, attitudes, work habits, and appreciation, and to impart knowledge and information needed by workers to enter into and make progress in their chosen vocations. These training opportunities should be provided for the young people who are enrolled in the regular day schools and, also, for out-of-school youth and adults, both employed and unemployed, who are in need of and can profit by vocational training. (1956, c. 165, § 2)

163.030 [4526-2] **State Board of Education Authorized to Carry Out Vocational Education Program.** The State Board of Education is vested with the authority to carry out the purposes of the program of vocational education and the provisions of the Acts of Congress accepted by KRS 163.020, and is given all the necessary power and

authority in administering vocational education and carrying out the provisions of the acts relating thereto. (1956, c. 165, § 3)

163.036 Kentucky Industries for the Blind Established; Transfer of Personnel, Functions and Assets of Workshop for the Blind. (1) There is hereby established within the Bureau of Rehabilitation Services of the Department of Education the Kentucky Industries for the Blind which shall provide training and employment for adult blind persons.

(2) All personnel, functions, appropriations, assets, liabilities and property, both real and personal, of the Kentucky Workshop for the Blind are hereby transferred to the Kentucky Industries for the Blind. (1956 1st ex. s., c. 7, Article II, § § 4 & 5)

163.040 [4526-3] **Acceptance and Expenditure of Appropriations and Other Funds.** The money appropriated by the General Assembly of the Commonwealth of Kentucky and by the Acts of Congress of the United States and any other available funds shall be accepted and expended in accordance with law, policies, and rules and regulations of the State Board of Education and in accordance with Federal laws, rules and regulations. (1956, c. 165, § 4)

163.050 [4526-4] **Personnel; Traveling Expenses; Rules and Regulations.** (1) The Superintendent of Public Instruction shall have general supervision of all assistants, agents and employes. He shall appoint and set the salary of all division heads, assistants, agents and employes, but the appointment and dismissal of all division heads and other professional staff members shall be with the approval of the State Board of Education.

(2) The division heads, assistants, agents and employes shall be reimbursed for necessary traveling expenses incurred 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.

(3) 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 this chapter. The rules and regulations shall be published, and the State Board of Education, on the recommendation of the Superintendent of Public Instruction, may prepare and print such courses of study and make such reports as it deems necessary for the carrying out of the provisions of all Federal Acts accepted by authority of KRS 163.020. (1956, c. 165, § 5)

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.

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)

163.110 Declaration of Intent for KRS 163.110 to 163.180. In enacting KRS 163.110 to 163.180 it is the intention of the General Assembly of Kentucky to provide for and improve the rehabilitation of the physically and mentally handicapped citizens of the Commonwealth of Kentucky in order that they may increase their social and economic well-being and the productive capacity of the Commonwealth and Nation. (1956, c. 172, § 1)

163.120 State Rehabilitation Agency. The Superintendent of Public Instruction is hereby authorized to establish within the De-

partment of Education a State Rehabilitation Agency. This agency shall have such powers and duties as contained in KRS 163.110 to 163.180 and such other functions as may be established by regulation of the State Board of Education. (1956, c. 172, § 2)

163.130 Rehabilitation Services, Persons Entitled to Receive. Rehabilitation services shall be provided directly or through public or private instrumentalities to any handicapped individual (1) who is a citizen of the Commonwealth at the time of filing his application therefor, and whose rehabilitation the State Rehabilitation Agency determines after full investigation can be satisfactorily achieved, or (2) who is eligible therefor under the terms of an agreement with another state or with the federal government. (1956, c. 172, § 3)

163.140 Authority of the State Board of Education. The State Board of Education, upon recommendation of the Superintendent of Public Instruction, shall prescribe rules and regulations governing the services, personnel, and administration of the State Rehabilitation Agency; may enter into reciprocal agreements with other states to provide for the rehabilitation of residents of the states concerned; may establish and supervise the operation of vending stands operated by the blind, and vending stands and other small businesses established pursuant to KRS 163.110 to 163.180 to be conducted by severely handicapped persons. (1956, c. 172, § 4)

163.150 Business Enterprise Program For the Blind. (1) The State Rehabilitation Agency in the Department of Education, with the approval of the Superintendent of Public Instruction and the State Board of Education shall establish and maintain a business enterprise program for the blind. In connection therewith the agency shall be authorized to own, lease, manage, supervise and operate vending stands and other business enterprises for the use or benefit of blind persons in federal, state, private and other buildings.

(2) The share of expenses of this program to be charged to each enterprise shall not exceed three percent of the gross receipts of such enterprise above the amount of one hundred and twenty-five dollars gross sales per week, the first one hundred and twenty-five dollars per week being exempt from any such fee.

(3) One or more stand placement agents shall be employed to locate and establish additional vending stands.

(4) The State Rehabilitation Agency in the Department of Education shall make such surveys as may be deemed necessary to determine the vending stand opportunities for blind persons in state buildings or on other property owned, leased or otherwise occupied by the state government and may install vending stands in suitable locations on such property for the use of the blind.

(5) All of the net income from vending machines which are on the same property as a vending stand shall be paid to the blind operator of the vending stand.

(6) Whenever there exists a conflict of interests between state agencies seeking to vend merchandise on the same state property, the agencies shall negotiate a fair agreement which will protect the interest of both from unreasonable competition. Such agreements shall be submitted to the custodial authority having jurisdiction over the property for approval. Provided, however, that in all situations the operator shall be permitted to vend all items of merchandise customarily sold at similar vending stands. (1958, c. 12, § 3; 1962, c. 60; effective June 14, 1962)

163.160 Federal Acts Relating to Rehabilitation Accepted. This State accepts and agrees to comply with all the provisions of the Acts of Congress of the United States approved June 2, 1920 (41 stat. 735) relating to rehabilitation and all subsequent acts pertaining to rehabilitation enacted prior to January 1, 1956. The Governor of the Commonwealth may, by executive order, accept such Acts of Congress enacted subsequent to January 1, 1956, as may be deemed desirable and necessary . (1956, c. 172, § 6)

163.170 State Treasurer Designated as Custodian of Fund; Duties. The State Treasurer is hereby designated as the custodian of all funds. The State Treasurer shall make disbursements for rehabilitation purposes upon certification by the Superintendent of Public Instruction. (1956, c. 172, § 7)

163.180 Gifts May be Received. The Superintendent of Public Instruction is hereby authorized and empowered (with approval of the State Board of Education) to accept and use gifts made by will or otherwise for carrying out the purposes of KRS 163.110 to 163.180. Gifts made under such conditions as in the judgment of the Superintendent of Public Instruction are proper and consistent with the provisions of KRS 163.110 to 163.180 may be so accepted

and shall be held, invested, reinvested, and used in accordance with the provisions of KRS 163.110 to 163.180. (1956, c. 172, § 8)

163.220 Division of Services for the Blind. (1) There is created within the State Rehabilitation Agency in the Department of Education a Division of Services for the Blind.

(2) The division shall consist of a director and such other employes as the Department of Education shall determine (1958, c. 12, § 1)

163.230 Advisory Committee for Division of Services for the Blind. There is created an advisory committee to advise the director concerning the activities of the division. The committee shall consist of not less than five members appointed by the Governor for terms of four years, or until their successors are appointed and qualified. At least two members of the committee shall be blind persons who have a known interest in and a demonstrated knowledge of the problems and needs of the blind. No state employe shall be a member of the committee. Members of the committee shall serve without compensation, but shall be reimbursed for actual expenses incurred in service on the committee. (1958, c. 12, § 2)

163.240 Budget and Appropriations for Vocational Rehabilitation Services for the Blind. (1) To meet the needs and special problems of the blind, the portion of the budget provided for vocational rehabilitation services for the blind and the apportionment for other vocational rehabilitation services shall be separately established and maintained.

(2) All vocational rehabilitation services for the blind, under both state and federal appropriations, shall be channeled through the division of services for the blind. (1958, c. 12, § 4)

CHAPTER XI

STATE UNIVERSITIES AND COLLEGES

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CROSS REFERENCES

Books furnished and aid given to university and teachers colleges by State Librarian, KRS 57.300 to 57.320, 171.090, 171. 140; and by county librarians, KRS 172.160.

Financial condition of educational institutions to be reported annually to State Board of Education, KRS 157.060.

Negro students admissible to any institution of higher education under certain circumstances, KRS 158.021.

Printing, educational institution may do own, KRS 57.045.

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 College, Western Kentucky State College, Murray State College, Morehead State College and Kentucky State College; a member, other than the Superintendent of Public Instruction, of the board of regents of each of the state colleges to be selected by the board of regents of each state 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; the Superintendent of Public Instruction, who shall be chairman of the council; and three additional lay members from the state-at-large to be appointed by the Governor for regu-

lar terms of four years. The initial appointment of these three lay members shall be for terms of two, three and four years respectively. 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. Unexcused absences from two consecutive meetings of the council shall be cause for disqualification of council members. (1962, c. 129, § 1; effective June 14, 1962)

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 in Kentucky on the basis of efficiency and economy.

(2) Determine the amount of entrance fees and the qualifications for admission to each and 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 a secretary on the recommendation of the chairman. The council shall elect such staff as may be necessary, limited to available appropriations, on recommendation of the chairman. The staff shall be employes of the council; shall be responsible to the chairman as representative of the council; and their salaries shall be determined in the same manner as other state employes. (1956, c. 163, § 1)

164.025 Medical Research and Education Program. The Council on Public Higher Education shall have authority to provide for a program of medical research and education in the Commonwealth.

The program may be provided for by contract with any recognized and accredited school of medicine located within the Commonwealth of Kentucky. Such contract shall provide that the school of medicine shall admit to its course of instruction, up to such percentage of its full teaching capacity as may be fixed by contract, residents of the Commonwealth who make application to pursue the course of study of such school of medicine; provided, however, that such persons shall be certified to the council as to status of residency by the Registrar of the University of Kentucky, and shall be eligible for admission to said school of medicine. The Council on Public Higher Education shall pay to the school of medicine $1,500 per school year for each such student enrolled. Such payments shall be additional to the annual tuition fees paid by each such student. The council shall have authority to provide by contract that it pay the expense of specific medical research projects. The council shall make an annual report of its medical research and education program after June 30 of each year, including an accounting of all moneys received and disbursed. The council shall have no authority to incur any obligation in excess of the sums that have been appropriated to it. (1956, 1st ex. s., c. 7, Art. XIV, § 4)

164.027 Occupational Qualification Development Program; State Payments to Participating Municipal Junior Colleges. (1) The Council on Public Higher Education shall have authority to provide for a program of occupational qualification development in the Commonwealth. The program may be provided for by contract with any recognized and accredited municipal junior college located within the Commonwealth. Such contract shall provide that the college shall admit to its course of instruction, up to such percentage of its full teaching capacity as may be fixed by contract, residents of the Commonwealth who make application to pursue the course of study of such college; provided however, that such persons shall be certified to the council as to status of residency by the State Superintendent of Public Instruction and shall be eligible for admission to said junior college.

The Council on Public Higher Education shall pay to the college not more than $100.00 per school year for each such student enrolled. Such payments shall be additional to the annual tuition fees paid by each such student. The council shall have authority to provide by contract that it pay the expense of specific research

projects or programs conducted by the college. The council shall make an annual report of its occupational qualification development program after June 30 of each year, including an accounting of all moneys received and disbursed. The council shall have no authority to incur any obligation in excess of the sums that have been appropriated to it. (1962, c. 115, § 1; effective June 14, 1962)

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 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 curricular offerings, entrance fees and qualifications for admission to and reports from their respective institutions. (1952, c. 41, § 7)

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 four times 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. (1962, c. 129, § 2; effective June 14, 1962)

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; Appointment; Terms; Vacancies.** (1) 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, twelve competent citizens of Kentucky appointed by the Governor, and two non-voting members of the teaching faculty of the University of Kentucky. The terms of appointed members shall be for four years and until their successors are appointed and qualify. Three of the twelve appointed members shall be appointed each year. Three of the appointed members shall be representative of agricultural interests, three shall be alumni of the University and six shall be other distinguished citizens of the state representative of the learned professions. The Governor shall so make the appointments as to divide the representation upon the board, including the ex officio members, as nearly equally as possible between the two leading political parties of this state. Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for original appointments.

(2) The non-voting faculty members shall be teaching or research members of the faculty of the University of Kentucky of the rank of assistant professor or above. They shall be elected by secret ballot by all faculty members of the university of the rank of assistant professor and above. Faculty members shall serve for terms of three years and until their successors are elected and qualify, except that of the first two members elected one shall serve for a term of two years and one for a term of three years. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the teaching staff of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

(3) No member of the board of trustees or its administrative staff shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment or services, with exception of compensation to the two faculty members. (1948, c. 222, § 1; 1952, c. 155; 1956, c. 84; 1960, c. 112, § 1; effective March 25, 1960)

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; Public Character.** (1) 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 of trustees. 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 of trustees. A majority of the voting members of the board of trustees shall constitute a quorum. All necessary expenses incurred by the trustees in going to, and returning from and while attending meetings of the board of trustees shall be paid out of the funds of the university.

(2) The meetings of the board of trustees shall be open to the public. The board of trustees shall cause a stenographic transcript

of each of its meetings to be prepared and filed. An agenda for each of the meetings shall be sent to each member of the board of trustees and a copy thereof made available to the press. (1960, c. 112, § 2)

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 forms of fees, prerequisites or emoluments of any kind.

164.225 Board to Have Exclusive Jurisdiction of Appointments, Qualifications, Compensation, Promotions and Retirement Programs. Anything in any statutes of the Commonwealth to the contrary notwithstanding, the power over and control of appointments, qualifications, salaries and compensation payable out of the State Treasury or otherwise, promotions and official relations of all employes of the University of Kentucky, as provided in KRS 164.220, and, subject to any restrictions imposed by general law, the retirement ages and benefits of such employes, shall be under the exclusive jurisdiction of the Board of Trustees of the University of Kentucky, which shall be an independent agency and instrumentality of the Commonwealth. (1952, c. 28, § 1)

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 on 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.
Reports of financial condition to be made to State Board of Education, KRS 157.060.

164.285 Provisions of KRS 64.640 and 156.010 Inapplicable to Institutions of Higher Learning. KRS 156.010 and 64.640 and any

other statute, to the extent that they provide that the University of Kentucky, Eastern Kentucky State College, Western Kentucky State College, Murray State College, and Morehead State College shall be included in the Department of Education and constitute a division thereof, are hereby repealed. (1952, c. 28, § 3)

164.287 Motor Vehicle Liability Insurance; Conditions. Each board of regents or trustees of the state-supported institutions of higher learning is authorized to provide for liability and indemnity insurance against the negligence of drivers or operators of motor vehicles or other mobile equipment owned or operated by the board. If the transportation of members of the student bodies 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 not to exceed the limits of the policy rendered against the insured for loss or damage to property of any student or other person, or death or injury of any student or other person. (1962, c. 59)

Financial Responsibility Law, KRS Chapter 187. Vehicle insurance defined, KRS 304.347.

164.288 Power of University and State Colleges to Accept Federal Aid. Any of the state colleges or the University of Kentucky or the state on behalf of any of the colleges or the university may accept federal aid in the form of services, equipment, supplies, materials or funds by way of gift, grant or loan for the purpose of higher education including student loans. Any of the state colleges or the university acting through its president or its governing board is hereby authorized to receive such services, equipment, supplies, materials and funds as are now available or may be made available. The colleges and the university are hereby authorized to use funds appropriated to them in the 1959-1960 fiscal year in carrying out the matching provisions required by federal programs, loans or grants. (1960, c. 136, § 1; effective March 25, 1960)

STATE COLLEGES

164.290 [4527-37] **State Colleges Recognized; Names and Locations.** (1) The state colleges formerly designated as the state teach-

ers colleges shall hereafter be known as the Eastern Kentucky State College, located at Richmond, Kentucky, Western Kentucky State College, located at Bowling Green, Kentucky, Murray State College, located at Murray, Kentucky, and Morehead State College, located at Morehead, Kentucky, and under such names are recognized as established and maintained.

(2) Kentucky State College located at Frankfort, Kentucky, is a land-grant state college and, as such, all the provisions of KRS Chapter 164, with the exception of the provisions of KRS 164.320 concerning the appointment of the initial board of regents, applying to the other four state colleges shall likewise apply to Kentucky State College. (1948, c. 41, § 1; 1952, c. 41, § 8)

164.300 [4527-38] **Purpose of State 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 musuems, 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 state colleges, to be known as the Board of Regents of the.....State College. (1948, c. 11, § 2)

164.320 [4527-40; 4527-41; 4527-42] **Members of Board of Regents; Appointment; Term; Vacancies; Oath.** (1) Beginning April 1, 1957, the Board of Regents for each of the state colleges shall consist of the Superintendent of Public Instruction, who shall be chairman of each board, and six members appointed by the Governor. Each of the present members of the Board of Regents of each state college shall continue as a member of the board until the expiration of the term for which he was appointed and qualified.

(2) The terms of each member, except the holdover members, appointed under the provisions of this section shall begin on April 1, 1957. As of April 1, 1957, the Governor shall appoint two members to the Board of Regents for each of the four state colleges, except

Kentucky State College, and shall appoint three members to the Board of Regents of Kentucky State College.

(3) One of the members of the Board of Regents of each state college, except Kentucky State College, shall be appointed for a term of two years, and one for a term of four years. As of April 1, 1957, the Governor shall appoint three members of the Board of Regents of Kentucky State College, one member for a term of two years, one member for a term of three years, one member for a term of four years.

(4) Thereafter, appointments for a term of four years shall be made by the Governor within thirty days after the expiration of the term of each member. If the Governor should fail to make any such appointment within thirty days after the expiration of the term of any member, the remaining members of the Board of Regents of the particular college, whose terms shall not have expired, shall make such appointment within sixty days after the expiration of such term.

(5) Not more than two appointed members of any board shall be residents of one county; not more than three of the appointed members of any board shall belong to the same political party. Membership on the board shall not be incompatible with any other state office.

(6) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.

(7) Each appointed member of the board shall, at the first meeting following his appointment, take an oath to faithfully discharge his duties.

(8) Each member of the board shall serve for the term for which he is appointed and until his succsesor is appointed and qualified. (1956, 1st ex. s., c. 7, Art. XIV, § 1)

164.325 KRS 63.080 (2) Applicable to Board of Regents. Subsection two of Section 63.080 of the Kentucky Revised Statutes hereby is expressly made applicable to members of the Board of Regents of each of said colleges. (1956 1st ex. s., c. 7, Art. XIV, § 2)

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.

164.355 Agriculture and Mechanic Arts Departments at Kentucky State College; Federal Fund. The Kentucky State College shall main a department of agriculture and the mechanic arts, and for that purpose is entitled to receive and shall receive an equitable portion of the money appropriated to the state by an Act of Congress approved August 30, 1890. (1952, c. 41, § 9)

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.)

164.365 Governing Boards of Institutions to Have Exclusive Control of Employment, Tenure and Official Relations of Employes. Anything in any statute of the Commonwealth to the contrary notwithstanding, the power over and control of appointments, qualifications, salaries and compensation payable out of the State Treasury or otherwise, promotions, and official relations of all employes of Eastern Kentucky State College, Western Kentucky State College, Murray State College, and Morehead State College, as provided in KRS 164.350 and 164.360, and of Kentucky State College, shall be under the exclusive jurisdiction of the respective governing boards of each of the institutions named. (1952, c. 28, § 2)

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 board 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.

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 appro-

priations, 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 Veterans' 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 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, § 1; 1952, c. 41, § 11)

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.

164.505 Person Whose Father Was Killed While Serving in Armed Forces or Died as Result of Service Connected Disability Not Required to Pay Matriculation or Tuition Fee to State Supported Institutions of Higher Learning; Conditions. (1) Any person whose father was a resident of the Commonwealth of Kentucky upon his entrance into military service and who was killed while serving in the armed forces of the United States during wars declared by Congress or actions of the United Nations or who died as a result of a service connected disability shall not be required to pay any matriculation or tuition fee upon his admission to any state supported institution of higher education.

(2) In order to obtain the benefits conferred by subsection (1), the applicant therefor must have resided in Kentucky for five years next preceding his application for admission, and the parent-child relationship must be shown by birth certificate, adoption papers or other documentary evidence. The father's service and the cause of death must be evidenced by certification of the Veteran's Administration, its successor or the Department of Defense of the United States. In event one so admitted to a state supported institution of higher education under the provisions of this section shall have obtained a cash scholarship paid or payable to such institution, from whatever source, the amount of such scholarship shall be applied to the credit of such applicant in the payment of incidental expenses of his attendance at such institution, and any balance, if the terms of the scholarship permit, shall be returned to such applicant. (1956, c. 202)

MINOR CHILD OF WAR VETERANS

164.515 Minor Child of Permanently Disabled War Veteran Not Required to Pay Tuition; Conditions. (1) Any minor child whose father is a permanently and totally disabled war veteran shall not be required to pay any matriculation or tuition fee upon his admission to any state supported institution of higher education.

(2) To be entitled to benefits under this section the father of the child claiming benefits must be rated permanently and totally disabled for pension purposes or one hundred per cent disabled for compensation purposes by the United States Veterans' Administration of the Department of Defense.

(3) In the absence of certification of permanent and total disability by the United States Veterans' Administration or the Department of Defense, medical evidence showing permanent and total disability may be accepted, if this evidence is signed by a physician licensed to practice in the Commonwealth of Kentucky or an official of an accredited medical hospital in the Commonwealth of Kentucky.

(4) The parent-child relationship must be shown by birth certificate, legal adoption papers or other documentary evidence.

(5) To entitle a child or children to benefits under this section the disabled war veteran must have served during time of war or the Korean conflict in the Armed Forces of the United States, and his discharge therefrom must have been under honorable conditions.

He must be a resident of the Commonwealth of Kentucky, and his residency must have been for a period of not less than five years immediately preceding June 16, 1960. (1960, c. 92, §§ 1, 2, 3, 4 and 5; effective June 16, 1960)

164.520 [4591a] **Irredeemable Bond for Benefit of University of Kentucky and Kentucky State College.** 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 each year, draw its warrant on the State Treasurer for the sum of $627.75 in favor of the treasurer of Kentucky State College, and its warrant on the State Treasurer for the sum of $4,322.25 in favor of the treasurer of the University of Kentucky. (1952, c. 41, § 12)

164.530 Regional Compact of Southern States for Educational Services; Approval and Signature of. (1) The Regional Compact of Southern States for regional educational services [the text of which is set forth at length in Chapter 252 of the Acts of the 1950 General Assembly] be and the same is hereby approved and the State of Kentucky is hereby declared to be a party thereto, and the agreements, covenants, and obligations therein are declared to be binding upon the State of Kentucky.

(2) The Governor shall sign an engrossed copy of the Compact and sufficient copies be provided so that every State approving the Compact shall have an engrossed copy. (1950, c. 252, § § 2, 3)

Governor's control over interstate compacts, KRS 12.240.

164.540 Council on Public Higher Education Designated Agency of State for Purposes of Regional Compact; Restriction Concerning Negroes. (1) The Council on Public Higher Education in Kentucky as defined in KRS 164.010 is hereby designated as the agency of the Commonwealth of Kentucky charged with the responsibility and vested with all necessary authority, subject to the conditions and restrictions set out in subsection (2) of this section, to carry out the obligations, participate in the planning and negotiations, and ad-

minister the rights, benefits and privileges, devolving upon the Commonwealth of Kentucky and its citizens pursuant to the regional compact referred to in KRS 164.530, and to do all such other acts and things as may be necessary or desirable to implement the provisions of said regional compact efficiently and impartially for the benefit of all citizens of the Commonwealth.

(2) In its participation in the regional compact, or in any other regional plan having a similar purpose, the Commonwealth of Kentucky shall not erect, acquire, develop or maintain in any manner any educational institution within its borders to which Negroes will not be admitted on an equal basis with other races, nor shall any Negro citizen of Kentucky be forced to attend any segregated regional institution to obtain instruction in a particular course of study if there is in operation within the Commonwealth at the time an institution that offers the same course of study to students of other races. (1956, 1st ex. s., c. 7, Art. XIV, § 3)

COMMUNITY COLLEGES

164.575 Definition for KRS 164.575 to 164.600. As used in KRS 164.575 to 164.600, unless the context requires otherwise, "board" means the Board of Trustees of the University of Kentucky. (1962, c. 72, § 1; effective June 14, 1962)

164.580 University of Kentucky Community College System. The University of Kentucky Community College System is established. Each community college shall provide a two-year college curriculum. (1962, c. 72, § 2; effective June 14, 1962)

164.585 Location of Community Colleges Maintained. A community college shall be maintained in Ashland, Covington, Henderson, Cumberland and Elizabethtown, and the board shall convert any university facilities existing in these communities to the uses of the community college program. (1962, c. 72, § 3; effective June 14, 1962)

164.590 Location of Community Colleges to be Established and Maintained. There shall be established and maintained a community college; provided, however, that no community college in existence as of June 14, 1962, shall have its pre-existing name changed except upon the recommendation of its local advisory board, in each of the following locations: Prestonsburg, Blackey-Hazard, Hop-

kinsville, Somerset, each to be established as funds are made available. (1962, c. 72, § 4; effective June 14, 1962)

164.595 Powers of Board. (1) The board has the same powers with respect to the community colleges that it has as to the University of Kentucky in general. The board shall designate each community college with a name that includes the words "Community College."

(2) The board shall encourage and may accept donations of land or funds or both to be used in the acquisition, construction or operation of community colleges. The board may commemorate donations from private persons or corporations with suitable memorials.

(3) The board may accept federal grants to be used in the acquisition, construction, or operation of community colleges. (1962, c. 72, § 5; effective June 14, 1962)

164.600 Advisory Boards; Membership; Expenses. (1) The Governor shall appoint a local advisory board for each community college. Each local advisory board shall serve in an advisory capacity to the board and the head of the community college on the operation of the community college.

(2) Each local advisory board shall consist of seven members. A member's term is four years; however, when appointing the initial members of the local advisory boards, the Governor may appoint some members for terms of less than four years. Local advisory board members shall receive no compensation for their services, but shall be paid for their actual and necessary expenses. (1962, c. 72, § 6; effective June 14, 1962)

EXTENSION DISTRICTS

164.605 Short Title. KRS 164.605 to 164.675 may be cited as the District Cooperative Extension Service Law. (1962, c. 275, § 1)

164.610 Purpose. In enacting KRS 164.605 to 164.675, it is the intention of the General Assembly to provide for aid in disseminating among the people of Kentucky useful and practical information on subjects relating to agriculture, home economics and rural and community life and to encourage the application of the same in the several counties of the Commonwealth through extension work to be carried on in cooperation with the University of

Kentucky College of Agriculture and Home Economics, and the United States Department of Agriculture as provided in the Act of Congress May 8, 1914, as amended by Public Law 83 of the 83rd Congress. (1962, c. 275, § 2)

164.615 Definitions for KRS 164.605 to 164.675. As used in KRS 164.605 to 164.675, unless the context requires otherwise:

(1) "Cooperative extension service district" or "extension district" means the district authorized by KRS 164.620;

(2) "County cooperative extension service council" or "extension council" means the organization authorized by KRS 164.625;

(3) "College of Agriculture" means the College of Agriculture and Home Economics of the University of Kentucky;

(4) "Extension Service" means the Cooperative Extension Service in Agriculture and Home Economics of the College of Agriculture of the University of Kentucky and the United States Department of Agriculture;

(5) "Director of Extension" means the director of the Kentucky Cooperative Extension Service of the College of Agriculture of the University of Kentucky;

(6) "District cooperative extension service board" or "extension board" means the board authorized by KRS 164.630 and 164.635. (1962, c. 275, § 3)

164.620 Extension Districts Authorized. There is hereby authorized for each county an extension district whose boundaries shall be coexistent with the county boundaries. Such districts may be created by the fiscal court of the county. Each extension district shall constitute a governmental subdivision of the Commonwealth and a public body corporate. (1962, c. 275, § 4)

County fiscal courts, KRS 67.080.

164.625 Regulations, Authority and Duty of Director of Extension; Extension Council, Membership, By-Laws. (1) The Director of Extension is hereby authorized to promulgate regulations relating to the establishment of and continuation of extension councils. Said regulations may apply to a specific county.

(2) An extension council shall be established for each extension district. Each extension council shall be organized under regulations approved by the Director of Extension and shall be comprised of not less than fifteen citizens nor more than forty citizens

of the county in which the extension district is located, subject to the provisions of subsection (2) of KRS 164.635. All members of the extension council shall be appointed by the county groups and organizations of the county whose major interest is in agriculture and home economics such as farm bureaus, homemaker councils, 4-H Club councils and various commodity groups but is not necessarily limited to those mentioned. In event of question the eligibility of a group to appoint to the extension council shall be determined by the Director of Extension. The number of members of each extension council shall be determined by the size of the county, the diversity of agricultural interests of the county, and other like factors and shall be according to regulations mentioned in subsection (1) of this section. Each extension council shall adopt a set of by-laws providing for its operation and terms of membership according to the same regulations.

(3) All regulations issued under the provisions of this section shall be filed in accordance with KRS 13.085. Immediately after filing, the Director of Extension shall cause the text of every regulation to be published once, in at least one newspaper of general circulation in the county in which the regulation is applicable. The Director of Extension shall also mail two copies of every regulation to the county court clerk of the county in which the regulation is applicable, one copy of which shall be posted on the courthouse door or bulletin board. Additional distribution may be made at the discretion of the Director of Extension. (1962, c. 275, § 5)

164.630 Extension Board Authorized. An extension board may be created by the fiscal court of the county in which the extension district is located. The extension board, as the governing body of the extension council, shall be composed of the county judge and six other citizens residing within the extension district. (1962, c. 275, § 6)

164.635 Extension Board; Membership, Appointment, Term, Vacancies. (1) Appointment of the six members, other than the county judge, to the extension board shall be made by the county judge of the county in which the extension district is located. These appointments shall be made from nominations submitted by the extension council in the county in which said district is located. Said council, to be eligible to submit nominations, shall be organized and functioning in accordance with procedures approved by the Director of Extension.

(2) On or before November 1 of each year the extension council shall submit to the county judge a list of two nominees for each member to be appointed to the extension board. On or before December 1 of each year the county judge shall from his list appoint the required board members. If for any reason the county judge fails to appoint the required members by December 15 of the year in question, they may be appointed by the Director of Extension. On the first board two members shall be appointed for terms of three years, two for terms of two years and two for terms of one year. Thereafter, all appointments shall be for terms of three years and shall become effective on the first of January following appointment. Each member shall serve until his successor is appointed and qualified. Appointment of members to fill vacancies shall be in the same manner as those for other members. Board members may be appointed and the first board organized immediately after June 14, 1962. In this case the period served in 1962 shall be in addition to the regular terms of the members which start on January 1, 1963. Each board member shall, by virtue of his membership on the board, become a member of the extension council. This membership on the extension council may be in addition to the maximum of forty as listed in subsection (2) of KRS 164.625. (1962, c. 275, § 7)

164.640 Organization. On or before January 15 following the creation of the extension board, the county judge shall call all duly appointed board members together for an organization meeting. The county judge shall serve as chairman until all officers are elected. The officers of the board shall consist of a chairman, vice-chairman, secretary and treasurer. The positions of secretary and treasurer may be held by the same person and this person may be other than a board member, with the approval of the Director of Extension. (1962, c. 275, § 8)

164.645 Meetings Required. The extension board shall meet annually during the month of January for the election of officers and for the transaction of other necessary business and may hold such other meetings during the year as shall be determined and fixed by the extension board. (1962, c. 275, § 9)

164.650 Duties of Officers; Oath. (1) The chairman of the extension board shall preside at all meetings of the board, have authority to call special meetings of said board upon such notice

as shall be fixed and determined by the extension board, and shall call special meetings of the extension board upon the written request of the majority of the members of said board, and in addition to the duties imposed upon him by KRS 164.605 to 164.675, perform and exercise the usual duties performed and exercised by a chairman or president of a board of directors of a corporation.

(2) The vice-chairman, in the absence or disability of the chairman or his refusal to act, shall perform the duties imposed upon the chairman and act in his stead.

(3) The secretary shall perform the duties usually incident to this office. He shall keep the minutes of all meetings of the extension board. He shall sign such instruments and papers as provided for in KRS 164.605 to 164.675 and as may be required from time to time by the extension board .

(4) The treasurer, within ten days after his election as treasurer and before entering upon the duties of his office as treasurer, shall execute to the extension board a corporate surety bond of one hundred twenty-five precent of the amount, as near as can be ascertained, that shall be in his hands as treasurer at any one time. The cost of said corporate surety bond for the treasurer shall be paid out of the District Cooperative Extension Education Funds. After said treasurer executes said corporate surety bond, he shall receive, deposit and have charge of all of the funds of the extension board and shall pay and disburse said funds as provided for by KRS 164.605 to 164.675 and as may be required from time to time by the extension board.

(5) All members of the extension board shall take and sign the usual oath of public officers.

(6) Each of the officers of the extension board shall perform and carry out the duties as provided for in this section and shall perform and carry out such other duties as shall be required of them from time to time by the extension board. (1962, c. 275, §10)

164.655 Extension Board, Powers and Duties. The extension board of each extension district shall have the following powers and duties:

(1) To serve as an agency of the Commonwealth and to manage and transact all of the business and affairs of its district and have authority to acquire property necessary for the conduct of the business of the district for the purposes of KRS 164.605 to 164.675;

(2) To enter into an annual memorandum of agreement with the extension service and the extension district. This memorandum of agreement shall set forth the policy pertaining to (a) appointment of personnel to serve in the district, (b) financing of extension work in the district, and (c) responsibilities of the cooperating parties in planning and executing the program;

(3) To, and shall as soon as possible following the first meeting in which the officers are elected and annually thereafter, file in the office of the county clerk a certificate signed by its chairman and secretary, certifying the names, addresses and terms of office of each member and the names and addresses of the officers of the extension board with the signatures of the officers affixed thereto, and said certificate shall be conclusive as to the organization of the extension district, its extension board and as to its members and its officers;

(4) With the advice of the extension council, to make and adopt such rules and regulations not inconsistent with the law as it may deem necessary for its own government in the transaction of the business of the extension district;

(5) To cooperate with the extension service and the extension council in conducting an extension program in agriculture, home economics, youth work and related subjects in the extension district. Said program shall be planned and executed upon the advice, recommendations and assistance of the extension council with the board to make final decisions;

(6) To cooperate with the other extension districts in the employment of personnel, conduct of programs and sponsorship of activities for the mutual benefit of each;

(7) To cooperate with all extension organizations, farm organizations, state and federal agencies, civic clubs and any other organizations who may be interested in and willing to cooperate in conducting the extension programs in the extension district;

(8) To prepare annually not later than April 15 of each year in cooperation with the Director of Extension an extension district budget for the ensuing year. This budget shall be prepared with consideration being given to the advice and recommendations of the extension council, must be consistent with financing policies of the extension service and shall reflect the agricultural, home economics, youth and related subject matter needs of people in the extension district;

(9) To deposit all district extension education funds in a bank or banks approved by it in the name of the extension district. These receipts shall constitute a fund known as the District Cooperative Extension Education Fund which shall be disbursed by the treasurer of the extension board in accordance with the annual budget and the annual memorandum of agreement between the board and the extension service;

(10) To, from time to time when necessary and on approval of the fiscal court, borrow such funds as may be required to meet the financial obligations of the extension district; provided, however, that the extension board cannot in any fiscal year incur indebtedness in an amount which would be in excess of the anticipated revenue of said district for the fiscal year. The amount of the anticipated revenue shall be certified to said board by the fiscal court of the county in which the district is located.

(11) To expand the District Cooperative Extension Education Fund for salaries and travel expense of extension personnel, rental, office supplies, equipment, communications, office facilities, services and property acquisition and in payment of such other items as may be ncessary to carry out the extension district program;

(12) To carry over unexpended District Cooperative Extension Education Funds into the next fiscal year so that funds will be available to carry on the program; provided, however, that such anticipated carry-over funds shall be taken into consideration in the formulation of the extension district budget for the ensuing year;

(13) To file with the county fiscal court or board of commissioners and directors of extension and to publish in one newspaper of general circulation in the county before October 1 of each year a report under oath of all receipts and expenditures of such District Cooperative Extension Education Funds showing from whom received, to whom paid and for what purpose for the last fiscal year;

(14) To be remunerated from the District Cooperative Extension Education Fund for actual expenses incurred in the performance of services for the extension district; provided, however, that payments for expenses must be approved by the extension board;

(15) To accept contributions from fiscal courts and boards of

education for use in conducting extension work in the extension district as provided for under KRS 247.080;

(16) To accept private funds for use in conducting extension work in the extension district; provided, however, that the acceptance of all such contributions must be approved by the Director of Extension; and

(17) To collect reasonable fees for specific services which require special equipment or personnel such as soil testing services, seed testing services or other services in support of the educational program of the extension district. (1962, c. 275, § 11)

164.660 Equal Opportunity; Board Member Restrictions. (1) The extension board and all persons employed in the extension district shall in planning and execution the extension program provide opportunities for all citizens of said district regardless of race, creed or status to cooperate with and receive free the educational benefits from such programs.

(2) No near relative of a member of an extension board may be employed in extension work in the extension district in which the member is serving.

(3) Extension districts shall not engage in commercial activities or enterprises except as provided for in subsection (17) of KRS 164.655.

(4) No member of the extension board, excepting the county judge, shall at the same time serve in any elective office in the county, city, state or federal governments. (1962, c. 275, § 12)

Human Rights Commission, KRS Ch. 19.

164.665 Budget, Tax Authorized; Collection; Rate Limitation. (1) Following the preparation of the budget provided for in subsection (8) of KRS 164.655, the extension board shall present the budget to the fiscal court of the county in which the extension district is located. The fiscal court may accept or reject the budget in whole or in part, subject to the provisions of KRS 247.300. If the fiscal court accepts the budget, and if the fiscal court is unable to provide all or any part of the funds of the budget under the provisions of KRS 247.080, the fiscal court is empowered to levy a tax for said funds.

(2) This tax shall be known as the District Cooperative Extension Education Tax and shall be levied on all property assessed for taxation in the extension district subject to the full county rate.

(3) The taxes authorized by this section shall be collected in the same manner as are other county ad valorem taxes and shall be turned over to the extension board as the governing body of the taxing district. This tax shall be limited to a rate which will, based on current property assessments, provide revenue in an amount sufficient to meet the proposed expenditures of the extension district for the ensuing year; provided, however, that in no extension district can said tax be set at a rate which will yield annual revenue in excess of the following amounts:

In counties with assessments of—	
500 million and above	$75,000
100 million and under 500 million	50,000
50 million and under 100 million	25,000
25 million and under 50 million	15,000
15 million and under 25 million	10,000
10 million and under 15 million	7,500
Under 10 million	5,000

In addition to the above limitations, in no extension district shall the tax exceed seven cents on each one hundred dollars of the assessed valuation of all property in the district.

(4) All or any portion of the district extension budget may be financed from a District Cooperative Extension Education Tax and/or by contributions from other sources. (1962, c. 275, § 13)

164.670 Revenues Payable to Treasurer. All revenues realized from a District Cooperative Extension Education Tax shall be due and payable to the duly elected treasurer of the extension board on or before the fifteenth of each month following collection. (1962, c. 275, § 14)

164.675 Directive to Extension Board. The extension board is specifically directed to cooperate with the extension service and the United States Department of Agriculture in the accomplishment of the district cooperative extension education program contemplated by KRS 164.605 to 164.675. To the end that the state and federal funds allocated to the extension service and the Cooperative Extension Education Fund of each district may be more efficiently used by the extension service and the extension board, the Director

of Extension shall coordinate the cooperative extension education programs in the several extension districts. (1962, c. 275, § 15)

ARCHAEOLOGICAL SITES

164.705 Declaration of Policy. It is hereby declared to be the public policy of the Commonwealth to preserve archaeological sites and objects of antiquity for the public benefit and to limit exploration, excavation and collection of such matters to qualified persons and educational institutions possessing the requisite skills and purpose to add to the general store of knowledge concerning history, archaeology and anthropology. (1962, c. 278, § 1; effective June 14, 1962)

164.710 Definitions for KRS 164.705 to 164.735. As used in KRS 164.705 to 164.735, unless the context otherwise requires:

(1) "Archaeological site" means any place where articles of value in the scientific study of historic or prehistoric human life and activities may be found, such as mounds, earthworks, forts, mines, burial grounds, graves and village or camp sites of Indians or any aboriginal race or pioneers.

(2) "Object of antiquity" means a ruin, monument, relic, bone deposit, artifact or any product of human workmanship of Indians or any aboriginal race or pioneers.

(3) "Department" means the Department of Anthropology of the University of Kentucky. (1962, c. 278, § 2; effective June 14, 1962)

164.715 Prohibitions. No person shall wilfully injure, destroy or deface any archaeological site or object of antiquity situated on lands owned or leased by the Commonwealth or any state agency or any political subdivision or municipal corporation of the Commonwealth. (1962, c. 278, § 3; effective June 14, 1962)

164.720 Permits Required to Excavate. (1) No person shall explore, excavate, appropriate or remove from land owned or leased by the Commonwealth or any state agency or any political subdivision or municipal corporation of the Commonwealth, any archaeological site or object of antiquity without first obtaining a permit from the Department of Anthropology upon the recommendation of the agency owning or having control of the land upon which the same is situated.

(2) If exploration or excavation of archaeological sites and the finding and gathering of objects of antiquity is undertaken for the benefit of reputable museums, universities, colleges or other recognized scientific or educational institutions with a view to promoting the knowledge of archaeology or anthropology, permits shall be regularly granted.

(3) Each permit issued by the department under this section shall accurately describe the location and sites of the ruins or deposits where the exploration or excavation is to be conducted and shall authorize such actions only at such location. The permit shall be upon such conditions as the department shall deem advisable for maximum effective exploration with a minimum of injury to the surrounding terrain. Each permit shall terminate upon the following thirty-first day of December, subject to an annual renewal on or before the following January 15. However, any permit may be revoked by the department at any time upon finding that explorations or excavations authorized by the permit are not being conducted lawfully or properly in accordance with its terms. (1962, c. 278, § 4; effective June 14, 1962)

164.725 Authority to Mark Location. The department may designate archaeological sites and objects of antiquity and cause to be posted at the locations thereof appropriate signs or markers. (1962, c. 278, § 5; effective June 14, 1962)

164.730 Report Discovery. Any person who discovers an archaeological site or object of antiquity in the course of construction work or otherwise shall report such discovery to the department. (1962, c. 278, § 6; effective June 14, 1962)

164.735 Authority to Contract With Private Owner. The department may enter into contracts or cooperative agreements with private landowners relating to the preservation and proper exploration of any archaeological site or object of antiquity situated on such private land. The department may acquire with any funds available to it for such purpose, title to any real estate upon which is located an archaeological site or object of antiquity which the department determines it is important to be preserved. (1962, c. 278, § 7; effective June 14, 1962)

164.990 Penalties. (1) Any person or persons making fraudulent statements to obtain benefits under KRS 164.515 shall be

imprisoned in the penitentiary for one year or fined one thousand dollars, or both.

(2) Any person who violates the provisions of KRS 164.715 or subsection (1) of KRS 164.720 shall be fined not less than fifty dollars nor more than five hundred dollars or confined in jail for not less than ten days nor more than six months, or both fined and imprisoned. (1960, c. 92, § 6; subsection (2) enacted as 1962, c. 278, § 8)

THE REGIONAL COMPACT OF SOUTHERN STATES
(As found in Chapter 252 of the Acts of the 1950 General Assembly)

A Joint Resolution giving legislative approval to that certain compact entered into by eleven Southern States, as amended, relative to the development and maintenance of regional educational services and schools in the Southern States in the professional, technological, scientific, literary and other fields, so as to provide greater educational advantages and facilities for the citizens in the several States who reside in such region; to declare that the State of Kentucky is a party to said compact, as amended, and that the agreements, covenants and obligations therein are binding upon said State; and appropriating funds for Kentucky's share of the cost of administrative services and operations under said compact.

WHEREAS, on the 8th day of February, 1948, the States of Florida, Maryland, Georgia, Louisiana, Alabama, Mississippi, Tennessee, Arkansas, Virginia, North Carolina, South Carolina, Texas, Oklahoma, Kentucky, and West Virginia developed a written Compact relative to the development and maintenance of regional educational services and schools in the Southern States in the professional, technological, scientific, literary, and other fields, so as to provide greater educational advantages and facilities for the citizens of the several States who reside within such region, which Compact has since been approved by the legislatures of eleven of these States; and

WHEREAS, the said Compact has been amended in certain respects, a copy of which Compact as amended is as follows:

THE REGIONAL COMPACT
(As Amended)

WHEREAS, the States who are parties hereto during the past several years conducted careful investigation looking toward the

(2) If exploration or excavation of archaeological sites and the finding and gathering of objects of antiquity is undertaken for the benefit of reputable museums, universities, colleges or other recognized scientific or educational institutions with a view to promoting the knowledge of archaeology or anthropology, permits shall be regularly granted.

(3) Each permit issued by the department under this section shall accurately describe the location and sites of the ruins or deposits where the exploration or excavation is to be conducted and shall authorize such actions only at such location. The permit shall be upon such conditions as the department shall deem advisable for maximum effective exploration with a minimum of injury to the surrounding terrain. Each permit shall terminate upon the following thirty-first day of December, subject to an annual renewal on or before the following January 15. However, any permit may be revoked by the department at any time upon finding that explorations or excavations authorized by the permit are not being conducted lawfully or properly in accordance with its terms. (1962, c. 278, § 4; effective June 14, 1962)

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164.730 Report Discovery. Any person who discovers an archaeological site or object of antiquity in the course of construction work or otherwise shall report such discovery to the department. (1962, c. 278, § 6; effective June 14, 1962)

164.735 Authority to Contract With Private Owner. The department may enter into contracts or cooperative agreements with private landowners relating to the preservation and proper exploration of any archaeological site or object of antiquity situated on such private land. The department may acquire with any funds available to it for such purpose, title to any real estate upon which is located an archaeological site or object of antiquity which the department determines it is important to be preserved. (1962, c. 278, § 7; effective June 14, 1962)

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imprisoned in the penitentiary for one year or fined one thousand dollars, or both.

(2) Any person who violates the provisions of KRS 164.715 or subsection (1) of KRS 164.720 shall be fined not less than fifty dollars nor more than five hundred dollars or confined in jail for not less than ten days nor more than six months, or both fined and imprisoned. (1960, c. 92, § 6; subsection (2) enacted as 1962, c. 278, § 8)

THE REGIONAL COMPACT OF SOUTHERN STATES
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A Joint Resolution giving legislative approval to that certain compact entered into by eleven Southern States, as amended, relative to the development and maintenance of regional educational services and schools in the Southern States in the professional, technological, scientific, literary and other fields, so as to provide greater educational advantages and facilities for the citizens in the several States who reside in such region; to declare that the State of Kentucky is a party to said compact, as amended, and that the agreements, covenants and obligations therein are binding upon said State; and appropriating funds for Kentucky's share of the cost of administrative services and operations under said compact.

WHEREAS, on the 8th day of February, 1948, the States of Florida, Maryland, Georgia, Louisiana, Alabama, Mississippi, Tennessee, Arkansas, Virginia, North Carolina, South Carolina, Texas, Oklahoma, Kentucky, and West Virginia developed a written Compact relative to the development and maintenance of regional educational services and schools in the Southern States in the professional, technological, scientific, literary, and other fields, so as to provide greater educational advantages and facilities for the citizens of the several States who reside within such region, which Compact has since been approved by the legislatures of eleven of these States; and

WHEREAS, the said Compact has been amended in certain respects, a copy of which Compact as amended is as follows:

THE REGIONAL COMPACT
(As Amended)

WHEREAS, the States who are parties hereto during the past several years conducted careful investigation looking toward the

establishment and maintenance of jointly owned and operated regional educational institutions in the Southern States in the professional, technological, scientific, literary and other fields, so as to provide greater educational advantages and facilities for the citizens of the several States who reside within such region; and

WHEREAS, Meharry Medical College of Nashville, Tennessee, has proposed that its lands, buildings, equipment, and the net income from its endowment be turned over to the Southern States, or to an agency acting in their behalf, to be operated as a regional institution for medical, dental and nursing education upon terms and conditions to be hereafter agreed upon between the Southern States and Meharry Medical College, which proposal, because of the present financial condition of the institution, has been approved by the said States who are parties hereto; and

WHEREAS, the said States desire to enter into a compact with each other providing for the planning and establishment of regional educational facilities;

NOW, THEREFORE, in consideration of the mutual agreements, covenants and obligations assumed by the respective States who are parties hereto (hereinafter referred to as "States"), the said several States do hereby form a geographical district or region consisting of the areas lying within the boundaries of the contracting States which, for the purposes of this compact, shall constitute an area for regional education supported by public funds derived from taxation by the constituent States and derived from other sources for the establishment, acquisition, operation and maintenance of regional educational schools and institutions for the benefit of citizens of the respective States residing within the region so established as may be determined from time to time in accordance with the terms and provisions of this compact.

The States do further hereby establish and create a joint agency which shall be known as the Board of Control for Southern Regional Education (hereinafter referred to as the 'Board'), the members of which Board shall consist of the Governor of each state, **ex officio**, and four additional citizens of each State to be appointed by the Governor thereof, at least one of whom shall be selected from the field of Education, and at least one of whom shall be a member of the Legislature of that State.

The Governor shall continue as a member of the Board during his tenure of office as Governor of the State, but the members of the

Board appointed by the Governor shall hold office for a period of four years except that in the original appointments one Board member so appointed by the Governor shall be designated at the time of his appointment to serve an initial term of two years, one Board member to serve an initial term of three years, and the remaining Board member to serve the full term of four years, but thereafter the successor of each appointed Board member shall serve the full term of four years. Vacancies on the Board caused by death, resignation, refusal or inability to serve, shall be filled by appointment by the Governor for the unexpired portion of the term. The officers of the Board shall be a Chairman, a Vice Chairman, a Secretary, a Treasurer, and such additional officers as may be created by the Board from time to time. The Board shall meet annually and officers shall be elected to hold office until the next annual meeting. The Board shall have the right to formulate and establish by-laws not inconsistent with the provisions of this compact to govern its own actions in the performance of the duties delegated to it including the right to create and appoint an Executive Committee and a Finance Committee with such powers and authority as the Board may delegate to them from time to time. The Board may, within its discretion, elect as its Chairman a person who is not a member of the Board, provided such person resides within a signatory State, and upon such election such person shall become a member of the Board with all the rights and privileges of such membership.

It shall be the duty of the Board to submit plans and recommendations to the States from time to time for their approval and adoption by appropriate legislative action for the development, establishment, acquisition, operation and maintenance of educational schools and institutions within the geographical limits of the regional area of the States, of such character and type and for such educational purposes, professional, technological, scientific, literary, or otherwise, as they may deem and determine to be proper, necessary or advisable. Title to all such educational institutions when so established by appropriate legislative actions of the States and to all properties and facilities used in connection therewith shall be vested in said Board as the agency of and for the use and benefit of the said States and the citizens thereof, and all such educational institutions shall be operated, maintained and financed in the manner herein set out, subject to any provisions or limitations which may be contained in the legislative acts of the States authorizing

the creation, establishment and operation of such education institutions.

In addition to the power and authority heretofore granted, the Board shall have the power to enter into such agreements or arrangements with any of the States and with educational institutions or agencies, as may be required in the judgment of the Board, to provide adequate services and facilities for the graduate, professional, and technical education for the benefit of the citizens of the respective States residing within the region, and such additional and general power and authority as may be vested in the Board from time to time by legislative enactment of the said States.

Any two or more States who are parties of this Compact shall have the right to enter into supplemental agreements providing for the establishment, financing and operation of regional educational institutions for the benefit of citizens residing within an area which constitutes a portion of the general region herein created, such institutions to be financed exclusively by such States and to be controlled exclusively by the members of the Board representing such States provided such agreement is submitted to and approved by the Board prior to the establishment of such institutions.

Each State agrees that, when authorized by the legislature, it will from time to time make available and pay over to said Board such funds as may be required for the establishment, acquisition, operation and maintenance of such regional educational institutions as may be authorized by the States under the terms of this compact, the contribution of each State at all times to be in the proportion that its population bears to the total combined population of the States who are parties hereto as shown from time to time by the most recent official published report of the Bureau of the Census of the United States of America; or upon such other basis as may be agreed upon.

This compact shall not take effect or be binding upon any State unless and until it shall be approved by proper legislative action of as many as six or more of the States whose Governors have subscribed hereto within a period of eighteen months from the date hereof. When and if six or more States shall have given legislative approval to this compact within said eighteen months period, it shall be and become binding upon such six or more States 60 days after the date of legislative approval by the Sixth State and the Governors of such six or more States shall forthwith name the mem-

bers of the Board from their States as hereinabove set out, and the Board shall then meet on call of the Governor of any State approving this compact, at which time the Board shall elect officers, adopt by-laws, appoint committees and otherwise fully organize. Other States whose names are subscribed hereto shall thereafter become parties hereto upon approval of this compact by legislative action within two years from the date hereof, upon such conditions as may be agreed upon at the time. Provided, however, that with respect to any State whose constitution may require amendment in order to permit legislative approval of the Compact, such State or States shall become parties hereto upon approval of this Compact by legislative action within seven years from the date hereof, upon such conditions as may be agreed upon at the time.

After becoming effective this compact shall thereafter continue without limitation of time; provided, however, that it may be terminated at any time by unanimous action of the States and provided further that any State may withdraw from this compact if such withdrawal is approved by its legislature, such withdrawal to become effective two years after written notice thereof to the Board accompanied by a certified copy of the requisite legislative action, but such withdrawal shall not relieve the withdrawing State from its obligations hereunder accruing up to the effective date of such withdrawal. Any State so withdrawing shall ipso facto cease to have any claim to or ownership of any of the property held or vested in the Board or to any of the funds of the Board held under the terms of this compact.

If any State shall at any time become in default in the performance of any of its obligations assumed herein or with respect to any obligations imposed upon said State as authorized by and in compliance with the terms and provisions of this compact, all rights, privileges and benefits of such defaulting State, its members on the Board and its citizens shall ipso facto be and become suspended from and after the date of such default. Unless such default shall be remedied and made good within a period of one year immediately following the date of such default this compact may be terminated with respect to such defaulting State by an affirmative vote of three fourths of the members of the Board (exclusive of the members representing the State in default), from and after which time such State shall cease to be a party to this compact and shall have no further claim to or ownership of any of the property held by or

vested in the Board or to any of the funds of the Board held under the terms of this compact, but such termination shall in no manner release such defaulting State from any accrued obligations or otherwise affect this compact or the rights, duties, privileges or obligations of the remaining States thereunder.

IN WITNESS WHEREOF this Compact has been approved and signed by Governors of the several States, subject to the approval of their respective legislatures in the manner hereinabove set out, as of the 8th day of February, 1948.

State of Florida; State of Georgia; State of Maryland; State of Louisiana; State of Alabama; State of Tennessee; Commonwealth of Virginia; State of South Carolina; State of Oklahoma; State of Kentucky; State of Mississippi; State of Arkansas; State of North Carolina; State of Texas; and State of West Virginia.

NOW THEREFORE, Be it resolved by the General Assembly of the Commonwealth of Kentucky:

(1) That the said Compact be and the same is hereby approved and the State of Kentucky is hereby declared to be a party thereto, and the agreements, covenants, and obligations therein are declared to be binding upon the state of Kentucky.

(2) That the Governor shall sign an engrossed copy of the Compact and sufficient copies be provided so that every State approving the Compact shall have an engrossed copy.

(3) That there hereby is appropriated, out of the General Expenditure Fund in the State Treasury, for Kentucky's share of the cost of administrative services and operations of the Board of Control for Southern Regional Education, the sum of $14,000, which sum shall be available for expenditure during the balance of the 1949-50 fiscal year and, without lapse, during the 1950-51 and 1951-52 fiscal years. Disbursement of the sum so appropriated shall be authorized by the Commissioner of Finance on requisitions of the Board of Control for Southern Regional Education.

(4) Whereas, the time within which Kentucky may enter into the Compact will shortly expire, and it is essential that this Resolution take effect at once in order that Kentucky may receive the benefits arising out of participation in the Compact, an emergency is declared to exist and this Resolution shall take effect upon its passage and approval by the Governor.

Approved March 25, 1950.

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 Appropriation for university.
165.040 Payment of appropriation 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.
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165.150 Law school buildings for municipal university; erection of.
165.160 Municipal colleges in cities of second class; establishment; board of trustees.
165.165 Bond issue for municipal college.
165.170 Tax levy for municipal college; amount; disposition.
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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.

CROSS REFERENCES

Books to be furnished University of Louisville Law School, KRS 57.300 to 57.320.

Negro students may be admitted under certain circumstances, KRS 158.021.

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.

Craddock v. University of Louisville, 303 S. W. (2d) 548. The Legislature has constitutional right to vest in a corporation, or body serving the public good, the power of eminent domain and a right to exercise a discretion as to selection and location of land and property needed in the furtherance of a plan to facilitate serving of the public good, and when such discretion is exercised in good faith it cannot be reviewed by the courts.

The University of Louisville had authority to condemn land to be leased for the construction of a private hospital to be used as a teaching hospital in connection with the University's School of Medicine.

The University of Louisville, a "municipal university" within the statute providing that a university in a city of the first class shall not constitute a municipal university unless it is controlled by a board of trustees appointed by the mayor and board of aldermen, consists of departments, and its chief work is instruction in arts, science, and the professions above high school grade.

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 receive 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] **Appropriation for University.** The board of aldermen of a city of the first class having a municipal university may make an annual appropriation from the general fund of the city for the support of such university. Such appropriation shall be such sum as in the judgment of the board of aldermen shall, when supplemented by other income of the university, be reasonably necessary for such purposes. (1954, c. 166, § 1)

165.040 [2948a-3] **Payment of Appropriation to University.** The funds appropriated by the board of aldermen of a city of the first class as provided in KRS 165.030 may be paid to the treasurer of the university by the director of finance of the city in regular monthly installments. (1954, c. 166, § 2)

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 other sources as well as from taxes levied for general city purposes. (1954, c. 166, § 3)

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 proceeding shall be conducted in the manner provided in KRS 416.120.

Craddock v. University of Louisville, 303 S. W. (2d) 548. The Legislature has constitutional right to vest in a corporation, or body serving the public good, the power of eminent domain and a right to exercise a discretion as to selection and location of land and property needed in the furtherance of a plan to facilitate serving of the public good, and when such discretion is exercised in good faith it cannot be reviewed by the courts.

The University of Louisville had authority to condemn land to be leased for the construction of a private hospital to be used as a teaching hospital in connection with the University's School of Medicine.

The University of Louisville, a "municipal university" within the statute providing that a university in a city of the first class shall not constitute a municipal university unless it is controlled by a board of trustees appointed by the mayor and board of aldermen, consists of departments, and its chief work is instruction in arts, science, and the professions above high school grade.

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. 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. (1950, c. 113)

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 [2948-4] **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. 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. (1954, c. 32)

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 thousand dollars or more to be under supervision of registered professional engineer or architect, KRS 322.360.

Craddock v. University of Louisville, 303 S. W. (2d) 548. The Legislature has constitutional right to vest in a corporation, or body serving the public good, the power of eminent domain and a right to exercise a discretion as to selection and location of land and property needed in the furtherance of a plan to facilitate serving of the public good, and when such discretion is exercised in good faith it cannot be reviewed by the courts.

The University of Louisville had authority to condemn land to be leased for the construction of a private hospital to be used as a teaching hospital in connection with the University's School of Medicine.

The University of Louisville, a "municipal university" within the statute providing that a university in a city of the first class shall not constitute a municipal university unless it is controlled by a board of trustees appointed by the mayor and board of aldermen, consists of departments, and its chief work is instruction in arts, science, and the professions above high school grade.

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; 2848b-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 162.150, 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; Board of Trustees.** (1) 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.

(2) If the college is supported by a municipal college support district, three members of the board of trustees mentioned in subsection (1) shall be appointed by the governing body of the district. (1960, c. 203, § 1; effective June 16, 1960)

Staff members of college are eligible for membership in teachers' retirement system, KRS 161.240.

165.165 Bond Issue for Municipal College. The legislative body of a city of the second class in which a municipal college or junior college exists under the provisions of KRS 165.160 to KRS 165.260

may, for educational purposes, use and employ all the authority contained in KRS 165.080 to 165.140 and 162.340 to 162.380 to issue bonds for the benefit of such college. (1962, c. 147; effective June 14, 1962)

165.170 [3219-1; 3219-3] **Tax Levy for Municipal College; Amount; Disposition.** 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 fourteen 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. (1960, c. 203, § 2; effective June 16, 1960)

165.175 Municipal College Support District. (1) The fiscal court of a county containing a city of the second class in which is located a municipal college, having obtained the authorization of the legislative body of such city for the college to accept tax support from a municipal college support district and for appointment of three members of the college board of trustees by the governing body of the district, may establish a municipal college support district consisting of the territory in the county outside the limits of the city in which is located the college. The members of the fiscal court shall constitute the governing body of the district. Subject to the provisions of subsection (2), the district may levy a tax of not less than five nor more than fourteen cents on each one hundred dollars of the assessed valuation of all property in the district. The funds raised by this tax shall be used solely to support the college.

(2) Certified copy of the order of the fiscal court creating the district shall be filed by the governing body of the district with the county clerk at least forty-five days before a regular election,

and the clerk shall cause the question whether the tax is to be imposed to be placed upon the ballots to be given to voters residing in the district. The question shall be so phrased as to ask the voter whether he favors the imposition of a tax of not less than five nor more than fourteen cents on each one hundred dollars of the assessed valuation of all property in the district for the purpose of supporting the municipal college in the second class city in the county. If a majority of those voting on the question favor the imposition of the tax, the governing body of the district shall levy the tax.

(3) The sheriff shall collect the taxes due the district at the same time and in the same manner in which he collects the state and county ad valorem tax. He shall be allowed a fee not to exceed four per cent for collection of this tax. The money collected shall be paid to the college board of trustees. (1960, c. 203, § 3; effective June 16, 1960)

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.

165.195 Acquisition of Property by Board of Trustees. The board of trustees of a municipal college in a city of the second class may acquire, by purchase or gift, lands and improvements for the purpose of expanding the plant and extending the usefulness of the college, and when unable to agree with the owner of land and improvements necessary for the purposes of the college may proceed to condemn the land and improvements. The condemnation proceedings shall be conducted in the manner provided in KRS 416.230 to 416.310. (1960, c. 203 § 4; effective June 16, 1960)

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.

Staff members of college are eligible for membership in teachers' retirement system, KRS 161.240.

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 two 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. (1948, c. 31)

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 ques-

tion 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 istruction 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 per cent 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 company 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

NEGRO VOCATIONAL AND HIGHER EDUCATION

166.010 West Kentucky Vocational School recognized.
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 West Kentucky Vocational Training School president.
166.080 Secretary and treasurer.
166.090 Meetings of State Board of Education at vocational school.
166.100 Acquisition and sale of property.
166.110 Rules, regulations and reports.
166.120 Departments and curricula.
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.
166.190 Lincoln Institute transferred to Kentucky State College; transfer of appropriations.

CROSS REFERENCES

Negro students admissible to any institution of higher education under certain circumstances, KRS 158.021.

Books furnished colored schools, KRS 57.300 to 57.320, 171.090.

166.010 [4527-59; 4527-62; 4527-62a; 4527-62c; 4527-80] **West Kentucky Vocational School Recognized.** The West Kentucky Vocational School, located at Paducah, is recognized as established and maintained. It shall be maintained by the state with such endowments, incomes, buildings and equipment as will enable it 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 board of trustees of the Western Kentucky Industrial College, and with all records and property held by such board or acquired by the State Board of Education for the benefit of the institution recognized by this section. (1952, c. 41, § 13)

166.040 [4527-62c] **Functions of West Kentucky Vocational Training School.** The purpose of the West Kentucky Vocational School is to make available facilities for vocational training for colored children to be carried on in accordance with the state plans for vocational education. (1952, c. 41, § 14)

Vocational Education and Rehabilitation, Ch. 163 KRS.

166.050 [4527-66; 4527-66c] **Appointment and Salary of School Officials and Employes.** The State Board of Education shall appoint a president for the West Kentucky Vocational School, and determine his salary and tenure of office. The term shall not exceed four years. Upon recommendation of the president, 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 school. (1952, c. 41, § 15)

166.060 [4527-66; 4527-68; 4527-69] **Removal of School Officials and Employes.** The State Board of Education may remove the president, and upon recommendation of the president shall remove any officer, teacher or other employe, but neither the president nor any other officer or teacher shall be removed except for incompetency, neglect of or refusal to perform his duty, or for immoral conduct. Neither the president nor any other officer or teacher shall be removed until after ten days' notice in writing stating the nature of the charges preferred, and until 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. (1952, c. 41, § 16)

166.070 [4527-67] **Powers and Duties of West Kentucky Vocational Training School President.** In the administration of the affairs of the West Kentucky Vocational School the president of the 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. (1952, c. 41, § 17)

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 West Kentucky Vocational School. The secretary shall prepare and keep all records, books and papers belonging to the board in its administration of said school. 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. (1952, c. 41, § 18)

166.090 [4527-78] **Meetings of State Board of Education at Vocational School.** The State Board of Education shall meet at least

once each year at the West Kentucky Vocational School for the purpose of inspecting the plant and observing the work and the needs of the school. (1952, c. 41, § 19)

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 West Kentucky Vocational School 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 school is 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 school. All appropriations, grants, bequests or donations for a specified use shall be applied to that use and no other. (1952, c. 41, § 20)

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 West Kentucky Vocational School anad for the guidance of its 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 board of trustees shall remain in force until repealed by order of the State Board of Education. (1952, c. 41, § 21)

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 West Kentucky Vocational School. The board may issue certificates or diplomas of graduation to students completing the prescribed curricula. (1952, c. 41, § 22)

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 school. 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. (1952, c. 41, § 23)

166.150 [4527-74] **Tuition; Fees.** Tuition in the West Kentucky Vocational School 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. (1952, c. 41, § 24)

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 five hundred dollars 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; 1948, c. 23)

166.190 Lincoln Institute Transferred to Kentucky State College; Transfer of Appropriations. (1) Lincoln Institute in Shelby County, Kentucky, is hereby transferred to and shall become a part of Kentucky State College which shall continue to maintain and operate it as a high school for the benefit of Negro children of the Commonwealth who do not otherwise have the opportunities to attend an approved high school. The board of regents, acting through the president of Kentucky State College, shall determine who may attend Lincoln Institute in accordance with rules and regulations adopted by said board and approved by the State Board of Education. In addition, Kentucky State College shall continue to maintain and operate Lincoln Institute as a model and practice

school under the supervision of thoroughly trained teachers for the purpose of giving observation and practice work to student teachers.

(2) All appropriations heretofore or hereafter made to Lincoln Institute shall be transferred to and made available to the board of regents of Kentucky State College for the purpose of maintaining and operating Lincoln Institute. (1952, c. 41, § 25)

CHAPTER XIV

EDUCATION OF THE DEAF, DUMB AND BLIND

167.015 Management of Kentucky School for Deaf by State Board of Education.
167.025 School staff; qualifications of superintendent.
167.035 School for Deaf advisory board.
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.
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.
167.210 Definition of "deaf-blind children."
167.220 Authority of Department of Education.
167.230 Authority of Division of Special Education.
167.240 Authority to adopt rules.
167.990 Penalties.

CROSS REFERENCES

Boards of education may provide special instruction for children partially deaf or blind, KRS 159.050.

Business enterprise program for the blind, KRS 163.150.

167.015 Management of Kentucky School for Deaf by State Board of Education. The Kentucky School for the Deaf at Danville, Kentucky, shall be managed and controlled by the State Board of Education. The board shall have possession and the responsibility and authority for 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 suitable 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. (1960, c. 68, Art. IV, § 1; effective March 17, 1960)

167.025 School Staff; Qualifications of Superintendent. The State Board of Education may employ, prescribe and direct the

duties and conduct of a superintendent, physician, professors, teachers, and all other necessary agents and employes for the Kentucky School for the Deaf. The superintendent shall be a person with at least five years' experience in the education and training of the deaf. (1960, c. 68, Art. IV, § 2; effective March 17, 1960)

167.035 School for the Deaf Advisory Board. (1) There shall be established a Kentucky School for the Deaf Advisory Board composed of five members appointed by the Governor for terms of four years and until their successors are appointed. The board shall elect from its membership a chairman. Members of the board shall serve without compensation but shall be reimbursed for necessary expenses incurred in performance of their duties.

(2) The Kentucky School for the Deaf Advisory Board shall act in an advisory capacity to the State Board of Education and the superintendent in conducting the activities of the school. (1960, c. 68, Art. IV, § 3)

Kentucky School for Deaf Advisory Board as division of Department of Education, KRS 156.010.

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 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; Exception.** 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 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. (1960, c. 68, Art. IV, § 4; effective March 17, 1960)

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 admisison 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 Prohibtied.** 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.

167.210 Definition of "Deaf-Blind Children." As used in KRS 167.210 to 167.240, unless the context otherwise requires, "deaf-blind children" includes any child whose combination of handicaps of deafness and blindness prevents him from profiting satisfactorily from educational programs provided for the blind child or the deaf child. (1962, c. 87, § 1; effective July 1, 1962)

167.220 Authority of Department of Education. The State Department of Education is hereby authorized to expend available funds for the purpose of sending children who are deaf-blind to any facility, school or institution, within or with-

out the Commonwealth, which provides a qualified program of education for such children. Such funds may be spent for evaluation and diagnosis, room, board, tuition, transportation and other items which are necessarily relevant to the education of such children. (1962, c. 87, § 2; effective July 1, 1962)

167.230 Authority of Division of Special Education. The Division of Special Education of the State Department of Education is herby authorized to determine if deaf-blind children should be educated in a facility, school or institution, within or without the Commonwealth. The Division of Special Education of the State Department of Education, subject to the approval of the State Board of Education, shall cooperate with existing agencies such as the Kentucky School for the Deaf and the Kentucky School for the Blind, in the coordination of their educational activities for such children. (1962, c. 87, § 3; effective July 1, 1962)

167.240 Authority to Adopt Rules. The State Department of Education is hereby authorized to adopt and promulgate such rules and regulations as it deems necessary and proper for carrying out the purposes of KRS 167.210 to 167.240. (1962, c. 87, § 4; effective July 1, 1962)

167.990 [298f-3; 298f-4; 298f-6] **Penalties.** (1) Any person who violates KRS 167.090 shall be fined not less than fifty nor more than one hundred dollars for the first offense and not less than one hundred nor more than two hundred 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. (1960, c. 68, Art. IV, § 5; effective March 17, 1960)

CHAPTER XV

EDUCATIONAL TELEVISION

168.010 Declaration of purpose.
168.020 Definitions for KRS 168.010 to 168.100.
168.030 Kentucky Authority for Educational Television.
168.040 Membership of authority.
168.050 Terms of members; vacancies; re-election or re-appointment.
168.060 Meetings; notice; quorum; organization.
168.070 Executive committee.
168.080 Employes.
168.090 Compensation and expenses of members.
168.100 Powers of authority.

168.010 Declaration of Purpose. It is declared to be the legislative purpose of KRS 168.010 to 168.100, and the public policy of the Commonwealth, that there be established, developed and utilized in the public interest a network of educational television production facilities and transmission and relay stations such as will ultimately make available to students in public schools and state-supported institutions of higher education in the Commonwealth, and to any others who may choose to utilize the same, television programs in aid of education, and for incidental use in other proper functions; and that the same be managed, controlled and operated in the public interest by an independent corporate agency and instrumentality of the Commonwealth having membership such as to be representative of the general public as well as public educational bodies at all levels. (1962, c. 16, § 1; effective February 19, 1962)

168.020 Definitions for KRS 168.010 to 168.100. As used in KRS 168.010 to 168.100, the following words and terms have the following meanings, unless in any instance the context shall clearly indicate another meaning, in which event the context shall be controlling:

(1) "Authority" means the Kentucky Authority for Educational Television;

(2) "Board" means the State Board of Education;

(3) "Department" means the State Department of Education;

(4) "Public schools" means the State-supported schools of the elementary and secondary levels, as defined in KRS 157.320;

(5) "Commission" means the State Property and Buildings Commission of Kentucky;

(6) "Council" means the Council on Public Higher Education in Kentucky;

(7) "University" means the University of Kentucky as one entity, including its present and future extensions;

(8) "State colleges" means and includes Eastern Kentucky State College, Kentucky State College, Morehead State College, Murray State College, and Western Kentucky State College; but does not include any present or future state supported junior colleges, unless by statute the same are given representation on the council;

(9) "Educational television" means and includes the production of television programs, the filming or taping thereof, the purchase or lease of filmed or taped programs produced by others, and the transmission or relaying of them for utilization (a) in aid of education in the public schools, and (b) for limited and incidental use in furtherance of other proper public functions;

(10) "Television facilities" means and includes sites, buildings, structures, machinery, equipment and installations, each with necessary or appropriate appurtenances, used or useful in the furtherance of educational television. (1962, c. 16, § 3; effective February 19, 1962)

168.030 Kentucky Authority for Educational Television. An independent agency and instrumentality of the Commonwealth is hereby created and established to be known as "The Kentucky Authority for Educational Television," the same being a public body corporate and politic, with perpetual succession, the power in its own name to contract and be contracted with, sue and be sued, to adopt and use a corporate seal, to adopt by-laws for the orderly conduct of its affairs, and to alter the same from time to time, to prescribe and enforce regulations governing the use of educational television and television facilities, and generally to have and use all powers of private corporations as set forth in KRS Chapter 271, except as the same may be inconsistent with the provisions of KRS 168.010 to 168.100. (1962, c. 16, § 2; effective February 19, 1962)

168.040 Membership of Authority. The authority shall consist of nine members, as follows:

The Superintendent of Public Instruction, ex officio, who shall initially serve as temporary chairman and shall call and preside over the organizational meeting or meetings until such time as the

members of the authority shall elect a chairman from among their number; a member of the staff or personnel of the department elected by the board upon recommendation of the Superintendent of Public Instruction as being qualified to serve as liaison and coordinator between the authority and the department on matters of curriculum, and his terms shall be the same as that of the Superintendent of Public Instruction by whom he is recommended, but terminable by the board in the event he is transferred to other duties in the department, and automatically terminated in the event of his severance from the department for any reason; a representative of the University of Kentucky and a representative of the state colleges who are members of the council, to be elected by the council; two members qualified by education or working experience in the technical and engineering aspects of educational television and television facilities, to be appointed by the Governor; three additional members appointed by the Governor who need possess no special or prescribed qualifications except that they shall be citizens of Kentucky. (Enacted as first paragraphof 1962, c. 16, § 4)

168.050 Terms of Members; Vacancies; Re-Election or Re-Appointment. (1) The terms of the members other than the Superintendent of Public Instruction and the member appointed from the staff or personnel of the department shall be originally, two members for a term of four years; two members for a term of three years; two members for a term of two years; and one member for a term of one year, to be determined by lot at the first meeting, thereafter the terms shall be for four years.

(2) In addition to vacancies from death or resignation, vacancies shall occur upon removal of permanent residence from the Commonwealth; in the case of the elected member representing the department and the board, by change of assignment or by severance from relationship with the department or the board for any reason; and, in the cases of the members representing the university and the state colleges, by termination of the member's membership on the council for any reason. Vacancies during the term of any member shall be filled for the unexpired portion of the term only; and vacancies of elected or appointed members by reason of the expiration of the term shall be for terms of four years each, in the same manner as the initial election or appointment, as the case may be.

(3) Elected or appointed members shall be eligible for re-election or reappointment for any number of terms, as long as the prescribed qualifications prevail. (Enacted as second and third paragraphs of 1962, c. 16, § 4)

168.060 Meetings; Notice; Quorum; Organization. (1) The authority shall meet not less frequently than quarterly, and otherwise as often as necessary for the orderly conduct of its affairs. If it sees fit to do so, it may establish in its by-laws, or by resolution, four or more fixed dates for regular meetings at one or more specified places, in which event any proper business may come before the authority on such occasions, and it shall not be necessary that the members be given notice thereof unless the chairman shall deem it necessary or desirable that the day, place or hour be changed, whereupon notice to such effect shall be mailed to each member by the chairman or secretary, by ordinary first class mail, postage prepaid, not less than one week in advance. Regular meetings may be adjourned to convene again at another time and place, if the facts are shown in a motion or resolution adopted by a majority of those present and entered upon the minutes; and if such be done, the adjourned session shall constitute a continuation of the regular session without notice to absent members; but the motion or resolution of adjournment may specify that every reasonable effort be made to give such notice to absent members as time and circumstances may permit, whereupon the secretary (or in his absence the chairman or any designated member) shall make such effort and report the same and the success or failure thereof as to each member, at the occasion of the adjourned session of the regular meeting. Special meetings may be called by the chairman, vice-chairman, secretary, or any two members upon notice of the time, place and business to be transacted, similarly given; and special meetings may be adjourned in like manner as in the case of regular meetings, except that the matters considered shall be limited to such as are set forth in the notice of the special meeting.

(2) Any member may waive notice orally or in writing at any time before, at or after any meeting; and the presence of a member at any meeting shall constitute a waiver of notice unless such member tenders at such meeting a written protest on the ground of want of sufficient notice.

(3) Five or more members shall constitute a quorum for the transaction of business at any meeting, and a majority vote thereof

shall be sufficient to transact any business properly before the meeting. Any lesser number may adjourn to reconvene at another time for failure to muster a quorum.

(4) Immediately upon receiving notice of the election or appointment of all other members, the Superintendent of Public Instruction shall call a meeting for organizational purposes, the same to be held at Frankfort, Kentucky, at a time and place set forth in a written notice mailed to each member, as set forth above. At such meeting the superintendent shall preside as temporary chairman, and the authority shall elect from among the members a chairman, a vice-chairman, a secretary and a treasurer, and define the duties thereof; or it may combine the offices of secretary and treasurer. (Enacted as first four paragraphs of 1962, c. 16, § 5; effective February 19, 1962)

168.070 Executive Committee. At such organizational meeting, or at any subsequent meeting, the authority may elect an executive committee, not less than three in number, of which the chairman or vice-chairman of the authority shall be a member and the presiding officer. The powers of the executive committee to transact business between meeting of the authority shall be defined, and may be limited, but it shall not be provided that actions of the executive committee within its defined powers and limitations are subject to review, or not final and binding as actions of the authority. The executive committee shall preserve minutes of its proceedings, and file a written copy thereof with the secretary at or before the next ensuing regular meeting of the authority. (Enacted as fifth paragraph of 1962, c. 16, § 5; effective February 19, 1962)

168.080 Employes. Subject only to availability of funds from any source, the authority may employ and prescribe the qualifications and duties of such persons as it may deem necessary to be proper performance of its purposes and functions; including an executive director to serve as the principal executive of the authority, and a chief engineer to supervise its engineering staff. Compensation shall be such as may be fixed in accordance with the standards established by the State Commissioner of Personnel. (1962, c. 16, § 6; effective February 19, 1962)

168.090 Compensation and Expenses of Members. (1) Members of the authority who are otherwise compensated by the Commonwealth on a full-time basis shall receive no additional compensation

as members of the authority, or for attendance at meetings. Members who are not otherwise compensated by the Commonwealth on a full-time basis shall receive a per diem of $10.00 for attendance at each meeting, including reasonable travel time necessarily required.

(2) All members may be reimbursed for actual travel and other proper expenses according to reasonable rules and regulations of the authority. The scope of travel shall not be limited to the confines of the Commonwealth; but may extend to any place outside the Commonwealth if specifically authorized by the authority by motion, resolution or directive reciting the occasion, necessity, and persons authorized to travel. (1962, c. 16, § 7; effective February 19, 1962)

168.100 Powers of Authority. The authority shall have no power of taxation, nor is it vested with the police power of the Commonwealth, except insofar as the exercise of the power of eminent domain may be deemed a part thereof. Otherwise, in general terms, it shall have and is hereby given all such constitutional powers as are necessary to its accomplishment of the purpose and implementation of the public policy set forth in KRS 168.010.

Without limiting the generality of the foregoing, but only for assurance to parties from time to time transacting business with the authority, and who may demand and be entitled to assurance, the following specific powers are hereby vested in the authority:

(1) To receive and use in the furtherance of its lawful objectives such state funds as may be appropriated or allotted to it from time to time, any funds received for services rendered under contract or from the sale of property owned by it, and contributions, matching funds, gifts, bequests and devises from any source, whether state or federal, and whether public or private; unless the same be tendered subject to one or more conditions which are inconsistent with KRS 168.010 to 168.100, or otherwise unlawful;

(2) To make contracts and agreements whereunder the authority may undertake to provide educational television or television facilities to or for any public body of the state or federal governments in furtherance of educational television or in aid of any other proper public function; provided, however, it shall be an express provision of every such contract that the authority will not undertake to transmit or relay, and will not permit any other party to transmit or relay, in the use of the authority's television

facilities, any subversive matter any political propaganda, or any image or message in the interests of any political party or candidate for public office; or be used by, or in aid of, any church, sectarian or denominational school; but this proviso is not intended and shall not be construed to be a limitation upon dissemination by the authority of legitimate objective instructional material which is properly related to the study of history or of current events, or which is no more than factually informative, of current issues of government or of various political ideologies;

(3) To produce, prepare, transmit and relay, either from life or by recording on tape or films, educational television programs not inconsistent with the curricula prescribed or approved for the public schools of the Commonwealth by the Department or the Board;

(4) To purchase or lease from others, or to contract with others for the use of, or the right to transmit or relay similar educational television programs, whenever in the opinion of the authority the same are suitable and cannot be produced as effectively or economically through the use of its own facilities;

(5) To purchase, lease, or otherwise acquire, and to operate, television facilities deemed by the authority to be necessary in the furtherance of its lawful objectives; and in this connection to acquire property by the exercise of the power of eminent domain, in the manner authorized for the Highway Department by KRS 177.081 to 177.089, whenever the same cannot be purchased, leased, or otherwise acquired at a reasonable price after reasonable negotiations with the owner or owners. In all such matters, the authority shall be subject to the provisions of KRS Chapter 56 with regard to approvals and authorizations by the Department of Finance and the Commission;

(6) To prescribe standards for receiving instruments which are purchased in the future for use in the public schools, in order that reception of educational television programs may be acceptable and in conformity with the manner of transmission thereof; and to disseminate such standards together with technical information with regard to installations and use of receiving instruments to all of the public school districts, or to such as may request the same;

(7) In its discretion and within the limitation of availability of funds from any sources, to (a) establish a program of matching funds as an inducement to public school districts to purchase and

install proper facilities for receiving and utilizing educational television programs, especially in situations where by reason of topographical difficulties of reception, special antennas or other equipment may be required, and/or (b) if so requested by the boards of education of a sufficient number of public school districts, to purchase receiving instruments on their behalf on a wholesale basis for the purposes of economy, any such purchases to be on a public competitive basis after due advertisement according to law, but restricted to such receiving instruments as meet the standards prescribed by the authority. (1962, c. 16, § 8)

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