

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

- (1) The purpose of this chapter is to establish a structure for the construction, operation, financing, and oversight of significant transportation projects within the Commonwealth and between the Commonwealth and the state of Indiana. To accomplish this purpose, the Kentucky Public Transportation Infrastructure Authority is established by Section 77 of this Act to review, approve, and monitor all projects eligible for construction and financing under this chapter and, if necessary, to assist with the operation, financing, and management of projects.
- (2) All projects approved by the Kentucky Public Transportation Infrastructure Authority shall be managed, constructed, and financed entirely or in part by:
- (a) A bi-state authority as provided in Section 80 of this Act; or
- (b) A project authority as provided in Section 81 of this Act.

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

As used in this chapter:

- (1) "Authority" means the state authority, or a bi-state authority, or a project authority, unless the specific use requires that it apply only to the state authority, or a bi-state authority, or a project authority;
- (2) "Bi-state authority" means an authority created under Section 80 of this Act;
- (3) "Cabinet" means the Transportation Cabinet;
- (4) "Commonwealth" means the Commonwealth of Kentucky;
- (5) "Cost" means:
- (a) The cost of construction of the project, including the acquisition of land, rights-of-way, property, rights in land, easements, and interests acquired by the authority for construction of a project;
- (b) The cost of preparing land or property, including demolishing or removing

any buildings or structures, and the cost of acquiring any lands to which those buildings or structures may be moved;

(c) The pro-rata value of all machinery and equipment used in construction of the project;

(d) Financing charges and provisions for working capital in an amount the authority determines to be reasonable;

(e) Interest prior to and during construction and, if approved by the authority, for a period up to two (2) years after completion of construction;

(f) The cost of traffic estimates and of engineering, financial and legal services, plans, specifications, surveys, estimates of cost and revenues, or other expenses necessary or incidental to determining the feasibility or practicability of constructing any project;

(g) The cost and expense of the relocation or removal of public utilities impacted by a project, including the cost of installing the facilities in a new location, the cost of any lands or any rights or interests in lands, and the cost of any other rights acquired to accomplish the relocation or removal;

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

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

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

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

(7) "Developing authority" means the authority involved in the development of a project;

(8) "Issuing authority" means the authority that will issue or has issued debt

associated with a project;

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

(10) (a) "Project" means:

1. Any highway or section of a highway designated as part of the federal interstate highway system; or

2. Any highway or section of highway built to the standards of the interstate highway system;

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

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

(11) "Project authority" means an authority created pursuant to Section 81 of this Act;

(12) "Project revenue bonds" means revenue funding bonds, revenue refunding bonds, notes, or other financial obligations issued under this chapter by the issuing authority;

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

(14) "State authority" means the Kentucky Public Transportation Infrastructure Authority created under Section 77 of this Act.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 175B IS CREATED TO

READ AS FOLLOWS:

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

(2) (a) The state authority shall be composed of the following eleven (11) voting members:

1. The secretary of the Finance and Administration Cabinet, or the secretary's designee;
2. The secretary of the Transportation Cabinet;
3. A representative of the Kentucky Association of Counties, to be appointed by the Governor;
4. A representative of the Kentucky County Judges/Executive Association, to be appointed by the Governor;
5. A representative of the Kentucky League of Cities, to be appointed by the Governor; and
6. Six (6) citizen members to be appointed by the Governor and confirmed by the Senate in accordance with KRS 11.160, at least two (2) of whom shall be familiar with road and bridge design or the financing and administration of transportation infrastructure projects; and

(b) Each Kentucky member who shares duties as a presiding officer of a bi-

state authority pursuant to subsection (4)(a)3. of Section 80 of this Act shall serve as a nonvoting ex officio member.

- (3) The ex officio members shall serve for the term of their respective offices.
- (4) Members appointed pursuant to subsection (2)(a)3. to 6. of this section shall begin their terms on October 1, 2009, and shall be appointed for a term of four (4) years; however, in making initial appointments, the members appointed pursuant to subsection (2)(a)6. of this section shall include two (2) members for a term of two (2) years, two (2) members for a term of three (3) years, and two (2) members for a term of four (4) years.
- (5) Vacancies occurring during the term of any member shall be filled in the same manner as the original appointment.
- (6) The members of the state authority shall receive no compensation for their services, but shall be entitled to reimbursement for all reasonable expenses necessary and incidental to the performance of their duties and functions as members of the state authority.
- (7) (a) Members of the state authority shall be considered public servants subject to KRS Chapter 11A.
- (b) The following individuals or entities shall be prohibited from entering into any contract or agreement with the state authority:
1. Any member of the state authority, a project authority, or a bi-state authority;
  2. Any spouse, child, stepchild, parent, stepparent, or sibling of a member of the state authority, a project authority, or a bi-state authority; and
  3. Any corporation, limited liability entity, or other business entity of which a person identified in subparagraph 1. or 2. of this paragraph is an owner, member, or partner or has any other ownership interest.

- (8) (a) The chairman of the state authority shall be the secretary of the Transportation Cabinet.
- (b) The members of the state authority shall elect a vice chairman and a secretary from the membership.
- (9) The Finance and Administration Cabinet shall provide fiscal consultant services to the state authority.
- (10) The state authority shall hold its initial meeting no later than November 1, 2009, and shall meet as needed thereafter, or at least quarterly if any bi-state authority or project authority exists, with adequate notice at the call of the chair. A quorum of at least fifty percent (50%) of the members of the state authority must be present for the state authority to take any action. At least eight (8) members shall vote in the affirmative for the state authority to approve a new project. All other business shall be approved by a majority vote of the members present.
- (11) (a) The state authority shall be attached for administrative purposes to the Transportation Cabinet. The state authority shall establish and maintain an office, and the secretary of the state authority shall maintain complete records of the state authority's actions and proceedings as public records open to inspection.
- (b) The state authority shall employ staff as needed in the conduct of its duties and functions, and shall fix their compensation.
- (12) The state authority may promulgate administrative regulations in accordance with KRS Chapter 13A as needed to fulfill the requirements of this chapter.
- (13) The state authority shall comply with applicable provisions of KRS Chapter 45A in the development of a project and the procurement of goods and services.
- (14) The records of the state authority shall be considered open records pursuant to KRS 61.870 to 61.884.
- (15) The meetings of the state authority shall be considered open meetings pursuant to

KRS 61.805 to 61.850.

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

(1) The state authority's primary purpose shall be to facilitate the construction, financing, operation, and oversight of projects by entering into bi-state agreements and by creating bi-state authorities and project authorities. To accomplish these purposes, the state authority shall have the power and duty to:

(a) Take the following actions relating to a bi-state authority authorized pursuant to Section 80 of this Act:

1. To enter into a bi-state agreement;

2. To review and approve project financing plans and development agreements; and

3. To monitor agreements entered into by bi-state authorities; and

(b) Take the following actions relating to a project authority authorized pursuant to Section 81 of this Act:

1. To request establishment of a project authority;

2. To review and approve project financing plans and development agreements;

3. To monitor activities of project authorities; and

4. To enter into an agreement with the project authority.

(2) The state authority, when authorized pursuant to subsection (4) of this section, may participate as a developing or issuing authority, or both, in the development, construction, or financing of a project by a bi-state or project authority, if necessary. If the state authority participates as a developing or issuing authority, the state authority shall have the powers and duties established in Section 79 of this Act as they apply to that project.

(3) The state authority, as a function of its oversight of any other authority created

pursuant to this chapter, shall report before the first issuance of bonds and no less than semiannually thereafter to the Capital Projects and Bond Oversight Committee and to the Interim Joint Committee on Appropriations and Revenue of the Legislative Research Commission, on any projects currently proposed or under development by each authority. Current and proposed levels of bonding for each project shall be reviewed by the Capital Projects and Bond Oversight Committee in accordance with Section 98 of this Act before the bonds shall be issued.

(4) (a) Notwithstanding any other provision of this chapter, the following actions shall not take effect until ratified by the General Assembly:

1. The creation of a bi-state authority;
2. The creation of a project authority;
3. The modification or amendment of the scope of any project; and
4. The development of any project undertaken entirely by the state authority.

(b) If any action described in paragraph (a) of this subsection is not ratified by the General Assembly, the creation, approval, or modification shall be considered void.

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

(1) The developing authority and issuing authority may be the same authority or separate authorities, depending on the needs of the project. The developing authority and issuing authority shall have the following powers and duties, as necessary to complete, operate, and maintain the project, subject to the limitations provided in subsection (4) of Section 78 of this Act:

(a) To enter into agreements as necessary to facilitate the development, construction, maintenance, operation, repair, or financing of projects;

- (b) To directly or indirectly construct, reconstruct, maintain, repair, operate, and regulate projects within the Commonwealth, or contract with another entity for these services;
- (c) To issue project revenue bonds of the issuing authority payable solely from the tolls, revenues, rentals, funds from any grant anticipation revenue vehicle (GARVEE), funds appropriated by the state or federal government, and any other funds pledged for their payment, for the purpose of paying all or any cost of a project, and to refund any of its bonds;
- (d) To fix, revise, charge, and collect tolls for transit over any project constructed by it, and for any ancillary or connector routes affected by the project;
- (e) To establish and enforce rules and regulations for the use of a project;
- (f) To acquire and hold any of the following in the name of the developing authority, and to dispose of them as the developing authority deems necessary:
1. Real and personal property, including lands and structures;
  2. Rights;
  3. Rights-of-way;
  4. Franchises;
  5. Easements and other interests in lands, including lands lying under water and riparian rights; and
  6. Any other item or asset necessary to accomplish its mission;
- (g) To designate the locations and establish, limit, and control points of access to the project, and to prohibit access to the project from any undesignated point;
- (h) To make and enter into contracts and agreements in the performance of duties and the execution of powers under this chapter;

- (i) To employ any consultants and to fix their compensation;
- (j) To receive and accept contributions and grants from any source for or in aid of the construction of a project or the operation of the developing or issuing authority;
- (k) To accept interest rate subsidies, rebates, tax credits, or guarantees as provided in the American Recovery and Reinvestment Act of 2009, or as may be provided in subsequent federal legislation providing support to or credit enhancement of governmental obligations;
- (l) To expend any funds provided under this chapter in advertising the facilities and services of a project to the traveling public;
- (m) To enter into lease agreements with the department; and
- (n) To do acts necessary or convenient to carry out the powers expressly granted in this chapter.
- (2) Projects may be developed in conjunction with other road development efforts of the Commonwealth that are in compliance with Federal Highway Administration requirements.
- (3) Projects developed pursuant to this chapter shall:

  - (a) Comply with the requirements of KRS Chapters 45A, 174, and 176;
  - (b) Be included in the most recently enacted biennial highway construction plan; and
  - (c) Comply with all relevant requirements of the Federal Highway Administration.

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

- (1) This section shall apply to any project that connects Kentucky with the state of Indiana. A project that connects Kentucky with the state of Indiana shall be constructed and financed by a bi-state authority.

- (2) (a) A local government that contains a portion of a proposed project may, by resolution of its governing body, request that its chief executive officer and the Governor appoint a group of Kentucky members to negotiate with a similar group from the state of Indiana for the purpose of proposing the creation of a bi-state authority composed of members from both states, recognized under the laws of both states, and existing for the purpose of financing, constructing, and operating a project or projects mutually beneficial to both states.
- (b) If established, the Kentucky membership of the bi-state authority shall consist of seven (7) members, three (3) of whom shall be appointed by the Governor, and four (4) of whom shall be appointed by the chief executive of the local government in which the project is located. The four (4) local government appointees shall be residents of the county in which the project is located. If a project is located in a consolidated local government, no more than two (2) appointees shall reside in the same Kentucky senatorial district. If portions of the project are located in more than one (1) local government, the chief executive of the county or consolidated local government having the largest population shall make the appointments authorized in this paragraph.
- (c) Any proposed agreement to establish a bi-state authority shall be presented to the state authority for approval. If the state authority approves the agreement, it shall be submitted to the General Assembly for ratification. If the agreement is ratified by the General Assembly, the state authority shall authorize the establishment of a bi-state authority and shall enter into an agreement with the state of Indiana for the creation of a bi-state authority.
- (3) (a) Kentucky members of a proposed bi-state authority who are appointed by the Governor shall be confirmed by the Senate in accordance with KRS

11.160. Members appointed by the chief executive of the local government shall be confirmed by the governing body of the local government.

(b) At least two (2) of the Governor's appointees and two (2) of the chief executive's appointees shall be familiar with road and bridge design or financing and administration of transportation infrastructure projects.

(c) Members of a bi-state authority appointed by the Governor shall serve for four (4) years, except that initial appointments shall be as follows:

1. One (1) appointee shall serve a term of two (2) years;

2. One (1) appointee shall serve a term of three (3) years; and

3. One (1) appointee shall serve a term of four (4) years.

(d) The governing body of the local government requesting formation of the bi-state authority shall, by resolution, establish term lengths for the initial and succeeding members who are locally appointed, with each term not to exceed four (4) years.

(e) Members of a bi-state authority representing the Commonwealth may be reappointed upon the expiration of their terms. Members reappointed shall be reconfirmed in the same manner as newly appointed members.

(4) (a) An agreement establishing a bi-state authority shall at a minimum:

1. Establish the total number of members of the bi-state authority;

2. Establish staffing and funding to support the work of the bi-state authority;

3. Designate the process for selecting a presiding officer of the bi-state authority, which shall include a requirement that a member from each state share the duties of presiding; and

4. Require the approval of a majority of the members from each state before any action may be taken or any change may be made by the bi-state authority.

- (b) A bi-state authority created pursuant to this section shall take the legal form necessary to conform to the laws of both states. The Commonwealth shall consider the bi-state authority to be an independent de jure municipal corporation, constituting a governmental agency and instrumentality of the appropriate jurisdictions. The bi-state authority shall adopt a name indicative of its location and purpose.
- (c) Any bi-state agreement approved pursuant to this section may be presented to the United States Congress for consent thereof by joint resolution as provided in Article 1, Section 10, Clause 3 of the United States Constitution.
- (5) (a) Members of a bi-state authority appointed from the Commonwealth shall be considered public servants subject to KRS Chapter 11A.
- (b) Members of a bi-state authority appointed from the Commonwealth shall receive no compensation for their services, but shall be entitled to reimbursement for all reasonable expenses necessary and incidental to the performance of their duties and functions as members of the bi-state authority.
- (c) The following individuals or entities shall be prohibited from entering into any contract or agreement with a bi-state authority:
1. Any member of the bi-state authority appointed to represent the Commonwealth or any member of the state authority or a project authority;
  2. Any spouse, child, stepchild, parent, stepparent, or sibling of a member of the bi-state authority appointed to represent the Commonwealth or any spouse, child, stepchild, parent, stepparent, or sibling of a member of the state authority or a project authority; and
  3. Any corporation, limited liability entity, or other business entity of which a person identified in subparagraph 1. or 2. of this paragraph is

an owner, member, or partner or has any other ownership interest.

(d) A bi-state authority shall comply with the procurement laws of both states that are a party to the agreement creating the bi-state authority, including the provisions of KRS Chapter 45A, in the development of a project and the procurement of goods and services.

(e) A bi-state authority shall comply with the laws of both states concerning the inspection and disclosure of public records, including the provisions of KRS 61.870 to 61.884.

(f) A bi-state authority shall comply with the laws of both states concerning the conduct of open meetings, including the provisions of KRS 61.805 to 61.850.

(6) After creation of the bi-state authority and prior to the execution of any agreements for the construction of the project, the bi-state authority shall prepare a financial plan specifying the construction and financing parameters of the project, including:

(a) A timeline for construction of the project, including financing requirements throughout the construction of the project;

(b) The amount and duration of per-vehicle tolls;

(c) Expected appropriations from the General Assembly to be used for project costs; however, no financial plan shall be submitted or approved which contains expected appropriations by the General Assembly beyond those appropriated in the most recently enacted biennial highway construction plan;

(d) Other sources of funds and expected amounts; and

(e) Other provisions relating to the construction and financing of the project.

The Kentucky members of the bi-state authority shall consult with the involved local governments in Kentucky, the department, and the Finance and

Administration Cabinet, Office of Financial Management, during the development of the financial plan. Upon completion and approval of the financial plan by the bi-state authority, the plan shall be submitted to the state authority for approval. The state authority shall not approve a financial plan which contains expected appropriations by the General Assembly beyond those appropriated in the most recently enacted biennial highway construction plan. If the financial plan is approved by the state authority, the cabinet and, as necessary, other state agencies or local governments may enter into a development agreement as provided in subsection (7) of this section with all necessary parties for the development of a project.

(7) (a) Upon approval of the financial plan as provided in subsection (6) of this section, a development agreement may be entered into establishing the terms and conditions under which a project will be undertaken and the duties, responsibilities, powers, and authorities of the parties to the agreement. The development agreement shall, at a minimum:

1. Require the bi-state authority to submit an annual report to the cabinet and the Legislative Research Commission;
2. Require that an annual audit of the bi-state authority be performed by a certified public accountant;
3. Include the relevant provisions from the financial plan required by subsection (6) of this section;
4. Include provisions detailing the duties, responsibilities, and obligations of each party in relation to the financing, development, operation, and maintenance of the project, and the servicing and retirement of all bonds;
5. Establish limits on any reserve funds created for operation, maintenance, or bond servicing, which shall be at a level to adequately

operate and maintain the project and ensure proper bond servicing;

6. Prohibit the amendment of the project or the financial plan without the prior evaluation and approval by the state authority. No amendment shall be approved that provides for expected appropriations by the General Assembly beyond those appropriated in the most recently enacted biennial highway construction plan;

7. Establish a process for the transfer of ownership of the portion of the project that is within the Commonwealth to the Commonwealth upon retirement of all bonds associated with the project; and

8. Require the approval of a majority of the members from each state before any action may be taken or any changes may be made by the bi-state authority.

(b) The parties to the agreement from the Commonwealth shall consult with the department and the Finance and Administration Cabinet, Office of Financial Management, in the development of the agreement.

(c) Additional agreements may be executed, as necessary to complete the project.

(8) The General Assembly hereby finds and declares that in carrying out the functions, powers, and duties as prescribed in this chapter, a bi-state authority authorized under this section will be performing essential public and government functions that improve the public welfare and prosperity of the people of the Commonwealth by promoting the availability of and enhancing accessibility to improved transportation services within the Commonwealth.

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

(1) Potential projects that are within Kentucky may be developed by a project authority as provided in this section.

- (2) A local government that contains a portion of a proposed project may, by resolution of its governing body, request the state authority to evaluate the establishment of a project authority for the purpose of developing a project.
- (3) The state authority may request that the department evaluate the proposed project by preparation of a financial plan evaluating all aspects of the proposed project, including:
- (a) The most effective location for the project;
  - (b) The impact on local governments and citizens at the location of or along the path of the project;
  - (c) A detailed analysis of the proposed cost of the project;
  - (d) The potential economic impact to the areas affected by the project;
  - (e) The anticipated level of use of the project;
  - (f) The amount and duration of per-vehicle tolls;
  - (g) Expected appropriations from the General Assembly to be used for the project; however, no financial plan shall be submitted or approved which contains expected appropriations by the General Assembly beyond those appropriated in the most recently enacted biennial highway construction plan;
  - (h) Other sources of funds and expected amounts; and
  - (i) Any other provisions relating to the construction and financing of the project.
- (4) If, based on the project evaluation prepared pursuant to subsection (3) of this section, the state authority and the department determine that the development of the project is economically feasible, the state authority shall submit the proposal to the General Assembly for ratification. If ratified by the General Assembly, the state authority may request that the Governor establish a project authority in accordance with the following:

- (a) The project authority shall be established as an independent de jure municipal corporation and political subdivision of the Commonwealth constituting a governmental agency and instrumentality of the Commonwealth, with the power to contract and be contracted with, acquire and convey property, sue and be sued, and exercise all of the usual powers of corporations not inconsistent with the authority's specifically enumerated purpose and duties;
- (b) The project authority shall adopt a name that includes the name of the project and the words "Project Authority";
- (c) The project authority shall be composed of seven (7) members, three (3) of whom shall be appointed by the Governor and confirmed by the Senate in accordance with KRS 11.160, and four (4) of whom shall be appointed by the chief executive of the local government that requested establishment of the project authority and confirmed by resolution of the local government's governing body;
- (d) Each member of the project authority shall be appointed for a period of four (4) years, except that in making initial appointments, the Governor shall appoint members for one (1), three (3), and four (4) years, and the chief executive shall appoint two (2) members each for two (2) and four (4) years;  
and
- (e) At least one (1) of the Governor's appointees and two (2) of the chief executive's appointees shall be familiar with road and bridge design or financing and administration of transportation infrastructure projects.
- (5) (a) Within ninety (90) days of its establishment under subsection (4) of this section, the project authority shall convene and organize. The project authority shall elect a chair and a vice chair, who shall be members of the project authority and elected by a majority of the project authority members.

The project authority shall appoint a secretary and a treasurer who shall not be members of the project authority, each of whom shall serve at the pleasure of the project authority and shall receive compensation as determined and paid by the project authority.

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

(c) The project authority shall maintain an office, and the secretary of the project authority shall maintain in that office complete records of all the project authority's actions and proceedings, which shall be considered open records under KRS 61.870 to 61.884.

(d) A project authority shall comply with the applicable provisions of KRS Chapter 45A in the development of a project and the procurement of goods and services.

(e) The meetings of a project authority shall be considered open meetings pursuant to KRS 61.805 to 61.850.

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

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

(b) The following individuals or entities shall be prohibited from entering into any contract or agreement with a project authority:

1. Any member of a project authority, a bi-state authority, or the state authority;

2. Any spouse, child, stepchild, parent, stepparent, or sibling of a member of a project authority, a bi-state authority, or the state authority; and

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

(8) (a) The state authority shall enter into a development agreement with a project authority to establish the terms and conditions under which a project will be undertaken. No financial plan shall be submitted or approved which contains expected appropriations by the General Assembly beyond those appropriated in the most recently enacted biennial highway construction plan.

(b) The development agreement shall establish the duties, responsibilities, and powers of the state authority, the project authority, and, as necessary, the cabinet with regard to the project.

(c) The development agreement shall include, at a minimum, all information necessary relating to the creation, development, operation, and disposal of the project. No financial plan shall be submitted or approved which contains expected appropriations by the General Assembly beyond those appropriated in the most recently enacted biennial highway construction plan.

(d) After the proposed project has been approved and set forth in the development agreement, it shall not be changed or expanded without evaluation and approval by the state authority and ratification by the General Assembly.

(e) Additional agreements may be executed, as necessary, between the state authority, the project authority, the department, and the cabinet.

(9) The provisions of this chapter relating to the duties, responsibilities, powers, and authorities of the state authority shall apply to a project authority to the extent that the duties, responsibilities, powers, and authorities are required for the project authority to carry out its duties and responsibilities under a development agreement.

(10) Upon retirement of all bonds associated with a project developed under this section, the ownership of the project shall be transferred to the Commonwealth pursuant to Section 93 of this Act.

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

(1) If imposed as part of the financing plan, tolls shall be fixed and adjusted by the developing authority to provide a fund sufficient with other revenues, if any, to:

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

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

(c) Create reserves not to exceed amounts specified in the development agreement.

(2) Unless a transfer of ownership of a project occurs pursuant to Section 93 of this Act, the developing authority shall at all times maintain ownership and control of all tolls and other revenues generated by the project. Tolls shall not be subject to supervision or regulation by any other department, division, authority, board, bureau, or agency of a local government or the Commonwealth.

(3) (a) The tolls and all other revenues derived from the project, except those revenues necessary to pay the cost of maintenance, repair, and operation

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

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

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

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

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

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

(1) Each project, upon completion, shall continuously constitute a link between parts of the highway system of the Commonwealth, or between the Commonwealth and the state of Indiana, and shall always be open to public travel, subject to any tolls or restrictions established by the developing authority. All projects shall be

subject to evaluation and inspection by the department, and shall meet the standards for public roadways established by the department.

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

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

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

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

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

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

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

then pending.

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

(5) (a) The state authority may promulgate administrative regulations in accordance with KRS Chapter 13A for the installation, construction, maintenance, repair, renewal, relocation, and removal of public utility facilities.

(b) If the developing authority determines that it is necessary for any public utility facilities which now are located in, on, along, over, or under the project to be relocated or be removed, the public utility owning or operating the facilities shall relocate or remove them in accordance with the requirements of the Public Service Commission.

(c) In case of a relocation or removal of facilities, the public utility owning or operating the facility and its successors or assigns may maintain and operate these facilities and the necessary appurtenances in the new location, for as long a period and upon the same terms and conditions as it had the right to maintain and operate the facilities in the former location.

(d) 1. A utility may establish its lines or properties within the right-of-way of a project which has been constructed or is owned, maintained, or operated by an authority only upon approval by the authority.

2. A utility may connect its lines with businesses and other installations permitted by an authority to exist upon the right-of-way of a project.

(6) A developing authority may contract with any person, partnership, association, or corporation desiring the incidental use of any part of the project, including the right-of-way adjoining the project, for the limited purpose of placing telecommunications equipment, power lines, or other utilities, and to fix the

terms, conditions, rents, and rates of charges for that use.

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

The Commonwealth may enter into agreements with an authority regarding the use of any lands owned by it, including lands lying under water, which are deemed by the authority to be necessary for the construction or operation of any project.

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

(1) (a) 1. An issuing authority may, by resolution, authorize the issuance of project revenue bonds for the purpose of paying the cost of a project.

2. The principal of and the interest on the project revenue bonds shall be payable solely from the funds provided for the payment.

3. The bonds of each issue:

a. Shall be dated;

b. Shall bear interest at a rate or method of determining rates;

c. Shall mature at a time not exceeding forty (40) years from their issuance date, as determined by the issuing authority; and

d. May be redeemable before maturity, at the option of the issuing authority, at a price and under terms and conditions as may be fixed by the issuing authority prior to the issuance of the project revenue bonds.

4. The issuing authority shall:

a. Determine the form of the bonds;

b. Fix the denomination of the bonds; and

c. Fix the place of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth.

(b) 1. The project revenue bonds shall be signed by the chairman or other presiding officer of the issuing authority or shall bear that officer's facsimile signature, and the seal of the issuing authority or a facsimile shall be affixed to the project revenue bonds and attested by the secretary of the issuing authority.

2. If any officer whose signature or a facsimile of whose signature appears on any project revenue bonds ceases to be an officer before the delivery of the project revenue bonds, the signature or facsimile shall be valid and sufficient for all purposes as if the officer had remained in office until the delivery.

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

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

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

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

(b) If the proceeds of the project revenue bonds of any issue, by error of estimates or otherwise, are less than the cost of the project or projects, additional project revenue bonds may be issued to provide the amount of the deficit, and, unless otherwise provided in the resolution authorizing the

issuance of the project revenue bonds or in the trust agreement securing the project revenue bonds, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the project revenue bonds first issued.

(c) If the proceeds of the project revenue bonds of any issue exceed the cost, the surplus shall be deposited to the credit of the sinking fund required by subsection (3)(a) of Section 82 of this Act for the project revenue bonds or any account or accounts the issuing authority shall have provided for in the proceedings or trust indenture authorizing and securing the project revenue bonds.

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

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

(1) Project revenue bonds issued by an authority under this chapter shall not constitute a debt of the Commonwealth or any of its political subdivisions, or a pledge of the faith and credit of the Commonwealth or any of its political subdivisions. Project revenue bonds issued pursuant to this chapter, shall be payable solely from the funds provided for in this chapter including but not limited to the funds described in subsection (1)(c) of Section 79 of this Act.

(2) Project revenue bonds shall contain on their face a statement to the effect that neither the Commonwealth nor the issuing authority shall be obligated to pay the

bonds or the interest thereon, except from any and all revenues associated with the project for which they are issued, and that neither the faith and credit nor the taxing power of the Commonwealth is pledged to the payment of the principal of or the interest on these project revenue bonds.

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

- (1) (a) Any project revenue bonds issued under this chapter may be secured by a trust agreement by and between the issuing authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. Subject to the restrictions established in Section 86 of this Act, the trust indenture or other document providing for the issuance of the project revenue bonds may pledge or assign the tolls and other revenues to be received, but shall not convey or mortgage any project or any part of a project.
- (b) The trust indenture or other document may contain any provisions for protecting and enforcing the rights and remedies of the bondholders as are reasonable and proper and not in violation of law, including covenants setting forth the duties of the developing authority and the issuing authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation, and insurance of the project for which the project revenue bonds were authorized; the rates of toll or rentals to be charged; and the custody, safeguarding, and application of all moneys.
- (2) Any bank or trust company incorporated under the laws of the Commonwealth which acts as depository of the proceeds of project revenue bonds or of revenues may furnish indemnifying project revenue bonds or pledge securities as the issuing authority requires. Any such trust indenture may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual

right of action by bondholders. Any trust indenture or proceedings may contain any other provisions that the issuing authority deems reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of the trust indenture or proceedings may be treated as a part of the cost of the operation of the project.

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

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

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

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

The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions. Because the operation and maintenance of projects by any authority created pursuant to this

chapter will constitute the performance of essential governmental functions:

(1) An authority shall not be required to pay any taxes or assessments upon any project or any property acquired or used by the authority under this chapter or upon the income therefrom; and

(2) The project revenue bonds issued under this chapter, their transfer, and the income therefrom shall at all times be free from taxation within the Commonwealth.

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

Project revenue bonds issued by an authority under this chapter shall be securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, trustees and other fiduciaries, and all other persons who are authorized to invest in bonds or other similar obligations, including capital in their control or belonging to them, are authorized to invest. The project revenue bonds shall be securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or other obligations of the Commonwealth is now or may hereafter be authorized by law.

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

(1) Each project constructed or operated under this chapter shall be maintained and kept in good condition and repair by the developing authority, which may contract with the department or with any local highway department for maintenance of a project.

(2) All private property damaged or destroyed in carrying out the powers granted by this chapter shall be restored or repaired and placed in its original condition as

nearly as practicable or adequate compensation shall be made out of funds provided under this chapter.

(3) All counties, cities, towns, and other political subdivisions and all public agencies and commissions of the Commonwealth, notwithstanding any contrary provision of law, may lease, lend, grant, or convey to an authority any real property which may be necessary or convenient to the effectuation of the authorized purposes of the authority, including public roads and other real property already devoted to public use.

(4) In obtaining property under this chapter, an authority shall pursue the acquisition under the procedures and mandates of KRS 416.540 to 416.670.

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

(1) Not more than one (1) year prior to the scheduled retirement of all bonds issued to finance a project, the department shall undertake an evaluation of the condition of the project to determine if the project has significant maintenance, reconstruction, or rebuilding needs. The evaluation shall be completed no less than one hundred eighty (180) days prior to the scheduled retirement of the bonds.

(2) If significant maintenance, reconstruction, or rebuilding is needed, the department shall determine if funds and reserves held by the developing authority for the project are adequate to accomplish the maintenance, reconstruction, or rebuilding. If additional funds are needed, additional bonds shall be authorized and issued by the same entity that issued the original bonds for the project, pursuant to this chapter.

(3) Tolls for the project shall continue until all bonds are retired.

(4) Notwithstanding any other provisions of this chapter, any portion of a project located within the Commonwealth and financed by an authority shall become the

property of the Commonwealth upon the retirement of all bonds issued to finance the project.

(5) Upon the transfer of any project to the Commonwealth pursuant to this section, the department shall evaluate the need for the continuance of any tolls. Tolls may be continued if significant rebuilding, expansion, or maintenance is needed. Tolls collected after ownership of a project has transferred to the Commonwealth shall be deposited into the road fund and used for current and future costs of the project, including maintenance, expansion, rebuilding, reconstruction, or other similar purposes.

(6) When an authority has transferred a project to the Commonwealth pursuant to this section, remaining fund reserves relating to that project shall be transferred to the road fund.

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

(1) Within ninety (90) days after the expiration of each fiscal year, the state authority shall make an annual report of its activities for the preceding fiscal year to the Controller of the Commonwealth within the Finance and Administration Cabinet, the Transportation Cabinet, and the Legislative Research Commission. The report shall set forth a complete operating and financial statement covering its operation during the fiscal year.

(2) The state authority shall cause an audit of its books and accounts to be made at least once each year.

(a) A request shall be made to the Auditor of Public Accounts for the performance of an annual audit. If the Auditor of Public Accounts declines in writing to assume responsibility for performing the audit or fails to respond in writing within thirty (30) days of receiving the request, the state authority may enter into a contract with a certified public accountant for an

audit.

(b) Any contract with a certified public accountant entered into as a result of the Auditor of Public Accounts either declining to assume responsibility of performing the audit or failing to respond within thirty (30) days of receipt of a written request for an audit shall specify the following:

1. That the certified public accountant shall forward a copy of the audit report and management letters to the Auditor of Public Accounts for review;

2. That the Auditor of Public Accounts may review the certified public accountant's work papers; and

3. That after review of the certified public accountant's work papers, if discrepancies are found, the Auditor of Public Accounts shall notify the authority of the discrepancies. If the certified public accountant does not correct these discrepancies prior to the release of the audit, the Auditor of Public Accounts may conduct its own audit to verify the findings of the certified public accountant's report.

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

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

Officers or employees of an authority shall not have any direct interest in the sale or purchase of any project revenue bonds authorized by that authority. Violation of this

section shall be punishable by fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than one (1) year, or both.

➔SECTION 22. A NEW SECTION OF KRS CHAPTER 175B IS CREATED TO READ AS FOLLOWS:

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

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

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

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

➔SECTION 23. A NEW SECTION OF KRS CHAPTER 175B IS CREATED TO READ AS FOLLOWS:

For a project for which preliminary planning or other work has been undertaken prior to the establishment of an authority, the authority shall follow all previous agreements, records of decision, or contracts entered into by the Commonwealth, subject to any modification necessary as a result of the implementation of this chapter.

➔SECTION 24. A NEW SECTION OF KRS CHAPTER 45 TO BE NUMBERED KRS 45.794 IS CREATED TO READ AS FOLLOWS:

The Kentucky Public Transportation Infrastructure Authority created pursuant to Section 77 of this Act shall provide to the committee at its January and July regular meetings a status report of any proposed or active project pursuant to Section 80 or 81 of this Act. The report shall contain the same information as reports required by KRS 45.793.

➔Section 25. If any provision of this Act is declared unconstitutional or held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of this Act that can be given effect without the invalid

provision or application, and to this end, the provisions of this Act are declared to be severable.