

1 AN ACT relating to the public postsecondary education institutions.

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

3 ➔Section 1. KRS 164A.550 is amended to read as follows:

4 As used in KRS 164A.555 to 164A.630 unless the context otherwise requires:

- 5 (1) "Governing board" means the board of trustees or board of regents constituting the
6 corporate bodies established by KRS 164.160 and 164.310 for the purpose of
7 governing universities and colleges and technical institutions.
- 8 (2) "Institutions" means all public supported postsecondary educational institutions in
9 Kentucky recognized in KRS 164.100, 164.290, 164.580, or 164.810(1)(a).
- 10 (3) "Affiliated corporation" means a corporate entity which is not a public agency and
11 which is organized pursuant to the provisions of KRS Chapter 273 over which an
12 institution exercises effective control, by means of appointments to its board of
13 directors, and which could not exist or effectively operate in the absence of
14 substantial assistance from an institution.
- 15 (4) "Depository bank" means any bank so designated by the Treasurer of the
16 Commonwealth as appropriate for receiving public moneys.
- 17 **(5) "Branch budget bill" has the same meaning as in KRS 48.010.**
- 18 **(6) "Capital project" has the same meaning as in KRS 45.750.**
- 19 **(7) "General fund" has the same meaning as in KRS 48.010.**

20 ➔Section 2. KRS 164A.575 is amended to read as follows:

- 21 (1) The governing boards of each institution may elect to purchase interest in real
22 property, contractual services, rentals of all types, supplies, materials, equipment,
23 printing, and services, except that competitive bids may not be required for:
- 24 (a) Contractual services where no competition exists;
- 25 (b) Food, clothing, equipment, supplies, or other materials to be used in
26 laboratory and experimental studies;
- 27 (c) Instructional materials available from only one (1) source;

- 1 (d) Where rates are fixed by law or ordinance;
- 2 (e) Library books;
- 3 (f) Commercial items that are purchased for resale;
- 4 (g) Professional, technical, scientific, or artistic services, but contracts shall be
5 submitted in accordance with KRS 45A.690 to 45A.725;
- 6 (h) All other commodities, equipment, and services which, in the reasonable
7 discretion of the board, are available from only one (1) source; and
- 8 (i) Interests in real property.
- 9 (2) Nothing in this section shall deprive the boards from negotiating with vendors who
10 maintain a General Services Administration price agreement with the United States
11 of America or any agency thereof, provided, however, that no contract executed
12 under this provision shall authorize a price higher than is contained in the contract
13 between General Services Administration and the vendor affected.
- 14 (3) The governing board shall require the institution to take and maintain inventories of
15 plant and equipment.
- 16 (4) The governing board shall establish procedures to identify items of common general
17 usage among all departments to foster volume purchasing. It shall establish and
18 enforce schedules for purchasing supplies, materials, and equipment.
- 19 (5) The governing board shall have power to salvage, to exchange, and to condemn
20 supplies, equipment, and real property.
- 21 (6) Upon the approval of the secretary of the Finance and Administration Cabinet, the
22 governing board may purchase or otherwise acquire all real property determined to
23 be needed for the institution's use. The amount paid shall not exceed the fair market
24 value as determined by a qualified appraiser or the value set by the eminent domain
25 procedure. Any real property acquired under this section shall be in name of the
26 Commonwealth for the use and benefit of the institution.
- 27 (7) (a) Notwithstanding KRS 56.806, the governing board may renegotiate the cost of

- 1 a lease after the expiration of the lease term and any renewal terms provided
2 in the lease prior to any renewal not provided for in the terms of the lease.
- 3 (b) Except when a lease incorporates a lease-purchase under KRS 56.806, the
4 governing board shall reserve the right to cancel a lease upon at least thirty
5 (30) days' written notice.
- 6 (c) Notwithstanding KRS 56.823(2) and (3), any lease renewals, except automatic
7 renewals permitted under KRS 56.803, 56.805(2), and 56.806(1), for which
8 the annual rental cost will exceed two hundred thousand dollars (\$200,000)
9 shall be reported to the Capital Projects and Bond Oversight Committee in the
10 same format as set out in KRS 56.823(2).
- 11 (d) Notwithstanding KRS 56.813, a public college or university may pay for
12 improvements to leased property costing in excess of ten thousand dollars
13 (\$10,000) but less than one million dollars (\$1,000,000) in a lump sum upon
14 approval of its board using non-general fund appropriations and without
15 incurring debt.
- 16 (8) The governing board shall sell or otherwise dispose of all real or personal property
17 of the institution which is not needed or has become unsuitable for public use, or
18 would be more suitable consistent with the public interest for some other use, as
19 determined by the board. The determination of the board shall be set forth in an
20 order, and shall be reached only after review of a written request by the institution
21 desiring to dispose of the property. Such request shall describe the property and
22 state the reasons why the institution believes disposal should be effected. All
23 instruments required by law to be recorded which convey any interest in any such
24 real property so disposed of shall be executed and signed by the appropriate officer
25 of the board. Unless the board deems it in the best interest of the institution to
26 proceed otherwise, all such real or personal property shall be sold either by
27 invitation of sealed bids or by public auction; provided, however, that the selling

1 price of any interest in real property shall not be less than the fair market value
2 thereof as determined by the Finance and Administration Cabinet or the
3 Transportation Cabinet for such requirements of that department.

4 (9) Real property or any interest therein may, subject to the provisions of KRS Chapter
5 45A, be purchased, leased, or otherwise acquired from any officer or employee of
6 any board of the institution, based upon a written application by the grantor or
7 lessor approved by the board, that the employee has not either himself or through
8 any other person influenced or attempted to influence either the board requesting the
9 purchase of the property. In any case in which such an acquisition is consummated,
10 the said request and finding shall be recorded and kept by the Secretary of State
11 along with the other documents recorded pursuant to the provisions of KRS Chapter
12 56.

13 (10) (a) As used in this section, "construction manager-agency," "construction
14 management-at-risk," "design-bid-build," "design-build," and "construction
15 manager-general contractor" shall have the same meaning as in KRS 45A.030.

16 (b) For capital construction projects, the procurement may be on a total design-
17 bid-build basis, a design-build basis, construction manager-general contractor
18 basis, or construction management-at-risk basis, whichever in the judgment of
19 the board offers the best value to the taxpayer. Best value shall be determined
20 in accordance with KRS 45A.070. Proposals shall be reviewed by the
21 institution's engineering staff to assure quality and value, and compliance with
22 procurement procedures. All specifications shall be written to promote
23 competition. Services for projects delivered on the design-build basis,
24 construction manager-general contractor basis, or construction management-
25 at-risk basis shall be procured in accordance with KRS 45A.180, KRS
26 45A.183, and the regulations promulgated in accordance with KRS 45A.180.
27 Nothing in this section shall prohibit the procurement of construction

1 manager-agency services.

2 (c) Notwithstanding KRS 45A.185, for all capital construction projects, bidder
3 security for competitive sealed bidding for construction contracts shall only be
4 required when the price is estimated to exceed one million dollars
5 (\$1,000,000).

6 (11) The governing board shall attempt in every practicable way to insure the
7 institution's supplying its real needs at the lowest possible cost. To accomplish this
8 the board may enter into cooperative agreements with other public or private
9 institutions of education or health care.

10 (12) The governing board shall have control and supervision over all purchases of energy
11 consuming equipment, supplies, and related equipment purchased or acquired by
12 the institution, and shall designate by regulation the manner in which an energy
13 consuming item will be purchased so as to promote energy conservation and
14 acquisition of energy efficient products.

15 (13) The governing board may negotiate directly for the purchase of contractual services,
16 supplies, materials, or equipment in bona fide emergencies regardless of estimated
17 costs. The existence of the emergency must be fully explained, in writing, by the
18 vice president responsible for business affairs and such explanation must be
19 approved by the institution president. The letter and approval shall be filed with the
20 record of all such purchases. Where practical, standard specifications shall be
21 followed in making emergency purchases. A good faith effort shall be made to
22 effect a competitively established price for emergency purchases.

23 (14) (a) All governing boards that purchase agricultural products, as defined by KRS
24 45A.630, shall, on or before January 1 of each year, provide a report to the
25 Legislative Research Commission and to the Department of Agriculture
26 describing the types, quantities, and costs of each product purchased. The
27 report shall be completed on a form provided by the department.

1 (b) If purchasing agricultural products, a governing board shall encourage the
2 purchase of Kentucky-grown agricultural products in accordance with KRS
3 45A.645. If a governing board purchases agricultural products through a
4 contract with a vendor or food service provider, the contract shall require that
5 if Kentucky-grown agricultural products are purchased, the products shall be
6 purchased in accordance with KRS 45A.645. Only contracts entered into or
7 renewed after July 15, 2008, shall be required to comply with the provisions
8 of this subsection.

9 (c) All governing boards that purchase Kentucky-grown agricultural products
10 shall, on or before January 1 of each year, provide a report to the Legislative
11 Research Commission and to the Department of Agriculture describing the
12 types, quantities, and costs of each product purchased. The report shall be
13 completed on a form provided by the department.

14 (15) ~~[Notwithstanding KRS 45.760,]~~The governing board may authorize a capital~~[~~
15 ~~construction]~~ project~~[or a major item of equipment]~~ even though it is not
16 specifically listed in any branch budget bill, subject to the following conditions and
17 procedures:

18 (a) The full cost shall be funded solely by non-general fund appropriations~~;~~

19 ~~],~~ **including:**

20 **1. Agency cash or restricted funds;**

21 **2. Federal funds;**

22 **3. Private funds; or**

23 **4. Agency bonds in an amount not to exceed five million dollars**
24 **(\$5,000,000) per capital project and per year, issued and matched in**
25 **accordance with Section 3 of this Act;**

26 (b) Moneys specifically budgeted and appropriated by the General Assembly for
27 another purpose shall not be allotted or reallocated for expenditure on the

1 project ~~or major item of equipment~~. Moneys utilized shall not jeopardize any
2 existing program and shall not require the use of any current general funds
3 specifically dedicated to existing programs; and

4 (c) The institution's president, or designee, shall submit the project or ~~major item~~
5 ~~of equipment~~ to the Capital Projects and Bond Oversight Committee for
6 review as provided by KRS 45.810~~45.800~~.

7 (16) Governing boards shall apply the reciprocal resident bidder preference described in
8 KRS 45A.494 prior to the award of any contract.

9 (17) Governing boards may authorize the use of reverse auctions as defined in KRS
10 45A.070 for the procurement of goods and leases.

11 (18) (a) Notwithstanding KRS 56.070, the governing board may obtain private
12 insurance to cover any state property in the institution's possession against loss
13 by fire and other hazards. The level of private insurance coverage shall be
14 commensurate with or greater than the insurance coverage provided through
15 the state fire and tornado insurance fund. An institution whose governing
16 board elects to obtain private insurance shall notify the secretary of the
17 Finance and Administration Cabinet at least six (6) months before terminating
18 the institution's insurance coverage through the state fire and tornado
19 insurance fund.

20 (b) No later than January 1 of each year, an institution whose governing board
21 elects to obtain private insurance instead of insurance coverage provided
22 through the state fire and tornado insurance fund shall certify, in writing, to
23 the secretary of the Finance and Administration Cabinet that the property is
24 insured in accordance with paragraph (a) of this subsection and shall attach a
25 copy of the private insurance policy.

26 ➔SECTION 3. A NEW SECTION OF KRS 164A.550 TO 164A.630 IS
27 CREATED TO READ AS FOLLOWS:

- 1 (1) A governing board of a public postsecondary education institution may issue
2 agency bonds with a cumulative annual principal amount of up to five million
3 dollars (\$5,000,000) without approval from the General Assembly when the
4 institution matches the principal amount of the agency bonds issued in
5 accordance with this section with agency funds reserved for the specific purpose
6 for which the agency bonds are issued.
- 7 (2) The governing board shall submit to the president of the Council on
8 Postsecondary Education, the secretary of the Finance and Administration
9 Cabinet, the executive director of the Office of Financial Management, and the
10 Capital Projects and Bond Oversight Committee written certification of the
11 following prior to issuance of agency bonds under this section:
- 12 (a) That the institution will provide sufficient funds to pay all debt service
13 related to any bonds issued to fund the project and future maintenance and
14 operating expenses related to the capital project being constructed;
- 15 (b) That the institution will match the principal amount of the agency bonds
16 issued in accordance with this section with agency funds reserved for the
17 specific purpose for which the agency bonds are issued; and
- 18 (c) That the institution shall not issue agency bonds in excess of five million
19 dollars (\$5,000,000) in accordance with this section during the calendar
20 year. Agency bonds authorized by the General Assembly in an
21 appropriations bill in accordance with KRS 45.760 shall not be applied
22 towards the five million dollar (\$5,000,000) limit.
- 23 (3) In issuing agency bonds under this section, the governing board shall not request
24 an appropriation from the state general fund to pay debt service or other
25 financing costs of bonds.
- 26 (4) All bonds issued under this section shall be an obligation of the institution,
27 payable as to both principal and interest from the pledged revenues. Any

1 resolution adopted under this section by a governing board shall constitute a
 2 contract between the institution and the holder of any bond and shall be binding
 3 in all respects upon the institution and its successors.

4 (5) The governing board shall specify by resolution the authorized project that is to
 5 be financed by the agency bonds. The resolution shall:

6 (a) Establish revenues to be pledged as security for the bonds; and

7 (b) Identify the funds reserved in accordance with subsection (1) of this section.

8 (6) Bonds issued or sold by the governing board under provisions of this section may
 9 be refinanced or refunded from time to time as often as it shall be advantageous
 10 and in the public interest to do so.

11 ➔Section 4. KRS 45.763 is amended to read as follows:

12 (1) Notwithstanding any statutory provisions to the contrary, any state agency as
 13 defined in KRS 7A.010, institution of higher education defined as an institution in
 14 KRS 164A.550, or affiliated corporation as defined in KRS 164A.550, shall obtain
 15 authorization from the General Assembly prior to entering into an agreement
 16 identified in subsection (2) of this section. The General Assembly authorization
 17 shall occur only when the General Assembly enacts legislation specifically
 18 authorizing the agreement.

19 (2) General Assembly authorization shall be required for an agreement for the use,
 20 purchase, or acceptance of real property of any value, or equipment with a value in
 21 excess of four hundred thousand dollars (\$400,000), if:

22 (a) The agreement provides that the state, a state agency, institution of higher
 23 education, or affiliated corporation will become the owner of the real property
 24 or equipment at any time; and

25 (b) All or any portion of the purchase price of the real property or equipment is
 26 funded through the issuance of a financial instrument which requires payment
 27 of principal and interest over time, including, but not limited to, notes, bonds,

1 securities, and certificates of participation, regardless of the identity of the
2 issuer.

3 (3) For any capital projects authorized by KRS 45A.077 and utilizing the public-private
4 partnership delivery method, the General Assembly has authorization through the
5 Capital Projects and Bond Oversight Committee to review and approve a project in
6 accordance with KRS 45.800. The contracting body shall report a capital project to
7 the Capital Projects and Bond Oversight Committee after negotiations are complete
8 with the project partner but prior to beginning work on the project for review and
9 approval by the committee.

10 **(4) The provisions of this section shall not apply to capital projects authorized by a**
11 **governing board of a public postsecondary education institution under Section 2**
12 **of this Act.**

13 ➔Section 5. KRS 45.810 is amended to read as follows:

14 (1) Any state agency authorized to issue bonds shall, prior to the issuance of any bonds,
15 submit the proposed bond issue to the Capital Projects and Bond Oversight
16 Committee, at least fourteen (14) days prior to the committee meeting, for review
17 and recommendation. The Turnpike Authority shall be exempt from this review.

18 (2) The Capital Projects and Bond Oversight Committee shall require documentation of
19 the following:

20 (a) That the proposed bond project or subsequent use of bond funds is in
21 compliance with all applicable regulatory or statutory provisions;

22 (b) That the debt service fund source has been identified and approved by all
23 applicable authorities as provided by statute; and

24 (c) That the bond issue, if supported by appropriation, is consistent with the
25 branch budget bill.

26 (3) **(a)** If the committee does not recommend a proposed project for the use of bond
27 proceeds as provided in subsection (1) of this section, the project shall be

1 referred to:

2 1. The secretary of the Finance and Administration Cabinet; ~~or~~;

3 2. *The governing board of the institution if the project is proposed by a*
 4 *public postsecondary educational institution pursuant to Section 2 of*
 5 *this Act.*

6 (b) *The secretary or the governing board, whichever is applicable,* ~~who~~ shall:

7 1. ~~(a)~~ Revise the project in consideration of the committee's objections; ~~f~~
 8 ~~or~~

9 2. ~~(b)~~ Cancel the project or the use of bond proceeds for the project; or

10 3. ~~(c)~~ Determine to proceed with the project.

11 (4) The decision of the secretary of the Finance and Administration Cabinet or a
 12 *governing board, whichever is applicable,* with respect to the project or the bond
 13 funding for the project shall be transmitted to the committee within thirty (30) days.

14 (5) Any changes in the bond project after review and approval by the committee shall
 15 be transmitted to the next regularly scheduled meeting of the committee.

16 (6) The bonding authorities designated in subsection (1) of this section shall submit an
 17 annual report to the committee at the end of each fiscal year, which shall include:

18 (a) The principal amount of the bonds outstanding at the beginning of the fiscal
 19 year;

20 (b) The amount of any bonds issued during the fiscal year;

21 (c) All payments of principal, interest, trustee fees, and any other fees, during the
 22 fiscal year; and

23 (d) The principal balance of bonds outstanding at the end of the fiscal year.

24 ➔Section 6. KRS 164A.585 is amended to read as follows:

25 (1) Subject to authorization by the General Assembly and KRS 164A.580, or
 26 *authorization by a governing board and Section 2 of this Act,* the governing
 27 boards may make plans and specifications, advertise for bids, let contracts or incur

1 any financing commitments, either in the way of a charge against institution funds
2 or in the way of negotiations for issuance of revenue bonds, for any capital
3 construction projects involving the improvement of lands or the construction,
4 alteration, reconstruction, or major repair of any building or other structure, or
5 sewage disposal, water supply system or other utility system.

6 (2) Review of construction plans for conformance with the uniform state building code
7 shall be conducted by the Department of Housing, Buildings and Construction. The
8 board shall not approve any such project requiring its approval in any instance
9 where it finds that the project is not needed, or that the proposed method of
10 financing is not sound, or in cases where the project will exceed the amount of the
11 funds available therefor, or the work contemplated will be insufficient to
12 accomplish the purpose of the project, or that after providing for the ordinary
13 recurring expenses of administration and debt service and for payments under
14 existing allotments for extraordinary expenses and capital outlay, cash will not be
15 available in the Treasury to promptly pay for the work or that the work is to be done
16 by employees of the institution.

17 (3) Any capital construction project, except as provided in subsection (4) of this
18 section, shall be contracted for on a competitive bid basis, and the execution of such
19 contracts shall be approved and authorized by the board. When a capital
20 construction project has been approved as provided in this section, in whole or in
21 part, the board shall prepare the plans and specifications, advertise for bids, award
22 the contracts, supervise the construction and handle the financial negotiations.

23 (a) The governing board shall ensure that every invitation for bids or request for
24 proposals shall provide that an item equal to that named or described in the
25 specifications may be furnished.

26 (b) The specifications may identify a sole brand in cases where, in the written
27 opinion of the chief procurement officer, documented unique and valid

1 conditions require compatibility, continuity, or conformity with established
2 standards.

3 (c) An item shall be considered equal to the item named or described if, in the
4 opinion of the governing board and the design professional responsible for the
5 specifications:

6 1. It is at least equal in quality, durability, strength, design, and other
7 criteria deemed appropriate;

8 2. It will perform at least equally the function imposed by the general
9 design for the public work being contracted for or the material being
10 purchased; and

11 3. It conforms substantially to the detailed requirements for the item in the
12 specifications.

13 (4) A capital construction project, the total cost of completion of which will not exceed
14 two hundred fifty thousand dollars (\$250,000), may be performed by the employees
15 of the institution or by individuals hired specifically for the project. Necessary
16 materials and supplies shall be procured in accordance with the standard purchasing
17 procedures and policies of the board as defined in KRS 164A.575.

18 ➔Section 7. KRS 164A.600 is amended to read as follows:

19 (1) The procedures and limitations related to capital construction and equipment
20 purchases set forth in KRS 45.750 through 45.800 and for construction of capital
21 projects set forth in KRS Chapter 45A shall apply to the governing boards. The
22 governing boards shall establish a contingency fund and an emergency repair,
23 maintenance and replacement fund in their plant fund records. Transfer and use of
24 these funds shall be governed by the provisions of KRS 45.770 and 45.780, as
25 appropriate, except that the governing boards of each university shall perform the
26 functions assigned to the Finance and Administration Cabinet in KRS 45.770 and
27 45.780.

1 (2) Capital construction and equipment purchase projects established by the governing
2 boards that are specifically authorized by the General Assembly in an enacted
3 branch budget bill shall be limited to the scope authorized by the General
4 Assembly, and the total costs of each project shall not exceed the appropriation;
5 except for emergency projects that may arise. In such instances, the governing
6 boards may transfer funds from other projects or from operating funds; however
7 each emergency project that is authorized by the board and sources of funds shall be
8 promptly reported to the Capital Projects and Bond Oversight Committee.

9 ➔Section 8. KRS 56.870 is amended to read as follows:

10 (1) Notwithstanding any statutory provisions to the contrary, prior to the issuance and
11 sale of any definitive bonds or temporary bonds, or the securing of any interim
12 financing through bond anticipation notes, loan agreements, or by any other means,
13 each agency, authority, board, corporation, cabinet, commission, or any other
14 agency or instrumentality of the Commonwealth shall first obtain approval of
15 financing from the General Assembly, sitting in regular or special session. This
16 approval shall be evidenced by the adoption by the General Assembly of a specific
17 act or the adoption by the General Assembly of the biennial branch budget bill
18 which specifies the purposes for the financing.

19 (2) The biennial branch budget bill shall also establish a ceiling for revenue bonds
20 which require a general fund or road fund appropriation to retire.

21 (3) The provisions of subsection (1) of this section shall not be applicable to:

22 (a) The financing of any project~~[in any case]~~ where the project for which
23 financing is proposed is certified by the secretary of the Finance and
24 Administration Cabinet to be of a type that will independently produce
25 revenues sufficient to fully meet debt service, issuance costs, reserve fund
26 requirements, insurance premiums, and any other expenditures necessary for
27 financing so that no appropriation of state funds will be required. Repayments

1 of revolving funds established with bond issues for which debt service,
2 issuance costs, reserve fund requirements, insurance premiums, or any other
3 expenditures associated with the issuance of the bonds are appropriated by the
4 General Assembly shall not be deemed independently produced revenue. This
5 certification shall be made in writing by the secretary of the Finance and
6 Administration Cabinet to the statutory head of the issuing agency or authority
7 with a copy to the Governor and the Legislative Research Commission; or

8 **(b) The financing of any project pursuant to Section 3 of this Act.**

- 9 (4) The following statement shall appear on all bonds or notes and all prospectuses
10 offering statements or related materials used in conjunction with the sale of bonds
11 or notes for which financing is certified in accordance with the provisions of
12 subsection (3) of this section: "Kentucky's name is on these bonds (or notes) for the
13 benefit and convenience of other entities within the state. However, the only
14 security which is pledged for the bonds (or notes) is the independent revenues and
15 assets from the project. The General Assembly does not intend to appropriate any
16 state funds to fulfill the financial obligation represented by the bonds (or notes)."

17 ➔Section 9. KRS 45.760 is amended to read as follows:

18 The provisions of any other law notwithstanding:

- 19 (1) During any biennium the amount allotted, from all sources, for expenditure on any
20 project in the state capital construction program for that biennium shall not exceed
21 the estimated cost of the project during that biennium, as shown in any branch
22 budget bill enacted by the General Assembly, except as otherwise provided in this
23 section and KRS 45.770 and 45.780.
- 24 (2) When the General Assembly disapproves a capital project or item of equipment that
25 was previously approved, it shall be eliminated as a capital project or major item of
26 equipment in the Capital Projects Program. General fund moneys appropriated for
27 that project or item of equipment but not allotted, and general fund moneys allotted

1 but not expended to the project or equipment account, shall be transferred to the
2 capital construction and equipment purchase contingency account in the capital
3 construction fund. Agency or federal funds for a disapproved project or item, that
4 have been appropriated but unallotted or allotted but unexpended, shall be returned
5 to the appropriate agency fund. Road fund moneys for a disapproved project or item
6 that have been appropriated but unallotted or allotted but unexpended, shall be
7 returned to the Road Fund Surplus Account.

8 (3) Capital projects and major items of equipment disapproved under subsection (2) of
9 this section shall be terminated.

10 (4) During any biennium, the amount allotted from all sources for expenditure for the
11 purchase of any major item of equipment shall not exceed the estimated cost of the
12 item as shown in any branch budget bill enacted by the General Assembly and
13 authorizing the purchase, except as provided in subsections (5), ~~and~~ (6), and (8) of
14 this section and in KRS 45.770 and 45.780.

15 (5) A major item of equipment to be used for medical, scientific, or research purposes,
16 excluding computer equipment and aircraft, may be authorized even though it is not
17 specifically listed in any branch budget bill enacted for the current biennium,
18 subject to the following conditions and procedures:

19 (a) Moneys specifically budgeted and appropriated by the General Assembly for
20 another purpose shall not be reallocated for expenditure on the item; moneys
21 utilized shall not jeopardize any existing program and shall not require the use
22 of any current general funds specifically dedicated to existing programs;

23 (b) Funds are available for the purchase and the method of financing the purchase
24 will not require an additional appropriation of state funds to acquire the item;
25 and

26 (c) The purchasing agency shall, within thirty (30) days after making the
27 purchase, report the purchase to the Capital Projects and Bond Oversight

1 Committee. The report shall include a description of the item, the purpose for
2 which it will be used, the necessity for the purchase, and the amount expended
3 for the purchase from each source of funds used.

4 (6) Moneys from any source may be transferred to the allotment account of any capital
5 project authorized by the General Assembly under this section, subject to the
6 following conditions and procedures:

7 (a) The total amount transferred shall not exceed fifteen percent (15%) of the
8 amount authorized by the General Assembly unless:

- 9 1. The source of funds is private or federal; or
- 10 2. An unforeseen decision by a federal or state court or regulatory agency
11 requires the transfer.

12 (b) Moneys specifically budgeted and appropriated by the General Assembly for
13 another purpose shall not be allotted or reallocated for expenditure on the
14 capital project.

15 (c) Moneys utilized shall not jeopardize any existing program and shall not
16 require the use of any current general funds specifically dedicated to existing
17 programs.

18 (d) The relevant entity head, or his designee, shall submit the capital project to the
19 Capital Projects and Bond Oversight Committee at least fourteen (14) days
20 prior to the committee meeting. The submission shall include a written
21 certification to the committee that the transfer, in excess of fifteen percent
22 (15%) of the amount authorized by the General Assembly, is:

- 23 1. Paid for out of private or federal funds; or
- 24 2. Required by an unforeseen decision by a federal or state court or
25 regulatory agency; and
- 26 3. Not allotted or reallocated from moneys specifically budgeted and
27 appropriated by the General Assembly for another purpose; and

- 1 4. Not jeopardizing any existing program and not requiring the use of any
2 current general funds specifically dedicated to existing programs.
- 3 (e) If a capital project is financed with road funds, the cost overruns or scope
4 increases shall be paid out of the highway contingency account established
5 pursuant to KRS 45.247.
- 6 (7) A capital construction project or a major item of equipment **for entities listed in**
7 **KRS 45.750(2), except institutions of higher education,** may be authorized even
8 though it is not specifically listed in any branch budget bill, subject to the following
9 conditions and procedures:
- 10 (a) Fifty percent (50%) or more of the actual cost shall be funded by federal or
11 private funds, and fifty percent (50%) or less of the actual cost shall be funded
12 by moneys appropriated to the capital construction and equipment purchase
13 contingency account or, if the purpose of the project or equipment is to reduce
14 energy costs, the relevant entity head certifies projected energy cost savings
15 associated with the project or equipment are reasonable and sufficient to
16 produce an aggregate simple payback period, as defined by KRS 56.770, of
17 five (5) years or less;
- 18 (b) Moneys specifically budgeted and appropriated by the General Assembly for
19 another purpose shall not be allotted or reallocated for expenditure on the
20 project or major item of equipment; moneys utilized shall not jeopardize any
21 existing program and shall not require the use of any current general funds
22 specifically dedicated to existing programs; and
- 23 (c) The relevant entity head, or his designee, shall submit the project or major
24 item of equipment to the committee for review as provided by KRS 45.800.
- 25 (8) **A capital project or a major item of equipment for institutions of higher**
26 **education may be authorized even though it is not specifically listed in any**
27 **branch budget bill as provided in Section 2 of this Act.**

1 (9) The capital construction and equipment purchase contingency fund may be used to
2 advance funds to projects authorized to be financed by bonds, to finance feasibility
3 studies for projects which may be contemplated for future funding, or to audit the
4 capital projects program when authorized by the General Assembly.

5 ~~(10)~~~~(9)~~ On or before October 1, each branch of government shall submit to the
6 committee the following information:

- 7 (a) A complete list and summary description of every capital construction project
8 and major item of equipment not completed as of June 30 of the prior fiscal
9 year; and
- 10 (b) For each project and major item of equipment, as of July 1, of the current
11 fiscal year:
- 12 1. The project phase;
 - 13 2. The project account number, project name, and any other term employed
14 to identify the project or major item of equipment;
 - 15 3. The available balance in the project or major item of equipment account,
16 and any sums considered available for that project or major item of
17 equipment;
 - 18 4. A statement of the transfers of funds to or from the project or major item
19 of equipment account; and, any account to which transfers from each
20 project or major item of equipment has been made;
 - 21 5. The year in which the project or major item of equipment was approved,
22 with specific reference to the legislation by which the project or item
23 was approved;
 - 24 6. Total expenditure on the project or major item of equipment;
 - 25 7. The current estimated completion cost, including the amount required
26 for annual inflation; and
 - 27 8. A statement that additional funds for the completion of the project or

1 major item of equipment are or are not required; and, if required, why
2 sufficient funds for completion are not available; and

3 (c) The balance in the appropriated, but unallotted account; and the balance in any
4 account, however designated, that contains appropriated, but unallotted funds
5 for capital construction.

6 ~~(11)~~[(10)] When the General Assembly authorizes a capital construction item in the
7 capital construction section of a branch budget bill, the entity head charged with
8 executing the branch budget shall construct the capital construction item according
9 to the requirements set forth in the branch budget bill, supporting documentation
10 considered by the General Assembly, and branch budget records. The entity head
11 shall not deviate from these requirements with regard to:

12 (a) Purpose or location to the extent that the capital construction item no longer
13 meets the identified needs; or

14 (b) Configuration for reasons other than practical accommodation to the
15 construction site or specific program to be accommodated within that capital
16 construction item.

17 ➔Section 10. KRS 45.793 is amended to read as follows:

18 The Finance and Administration Cabinet and any institution that manages its own capital
19 construction under KRS 164A.580 shall provide to the committee at its January, April,
20 July, and October regular meetings a status report of any capital project, excluding items
21 of equipment, not yet completed which received line item authorization by the Kentucky
22 General Assembly or was authorized pursuant to KRS 45.760(7) or (8). The Capital
23 Projects and Bond Oversight Committee shall prescribe data elements to be included in
24 the quarterly status reports. For each capital project, the status report shall include but not
25 be limited to the:

26 (1) Project title;

27 (2) County or counties in which the project is located;

- 1 (3) Current phase of the project;
- 2 (4) Estimated completion date of the project;
- 3 (5) Explanation of any delay or major change in the project, including deletion or
- 4 modification of project components; and
- 5 (6) Any other information that the committee requests.