

CHAPTER 66**(HB 33)**

AN ACT relating to school facilities.

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

→Section 1. KRS 157.455 is amended to read as follows:

- (1) As used in this section:
 - (a) "Life-cycle cost analysis" means to calculate and compare different building designs to identify which is the best investment over the long term. Life-cycle costs include design and construction costs, operating costs, maintenance costs, and repair and replacement costs, adjusted for the time value of money;
 - (b) "Net zero building" means a building in which the amount of energy provided by on-site renewable energy sources is equal to the amount of energy used by the building; and
 - (c) "Efficient school design" means a school building design:
 1. That meets, at a minimum, the requirements of the United States Green Building Council's Leadership in Energy and Environmental Design (LEED) for schools at the "Certified" level or certification under a comparable system with equivalent requirements or other building performance certification systems, such as the United States Department of Energy's Energy Star program;
 2. That ensures energy savings from a building design that equates to or exceeds ten percent (10%) over the American Society of Heating, Refrigerating, and Air Conditioning Engineers energy standard 90.1-2007; and
 3. For which whole building life-cycle cost analysis illustrates that the design is cost-effective.
- (2) The General Assembly hereby finds that schools that are constructed or renovated using efficient school design are proven effective vehicles for accomplishing some or all of the following beneficial public purposes:
 - (a) Lower operating costs and increased asset value;
 - (b) Reduced waste sent to landfills;
 - (c) Conservation of energy and water;
 - (d) Reduced storm drainage runoff;
 - (e) Healthier, safer environments for occupants;
 - (f) Reduced emissions of greenhouse gases; and
 - (g) Improved student attendance and performance by:
 1. Using the building as a teaching tool;
 2. Using the local environment as a context for curriculum integration;
 3. Providing rigorous, highly relevant, and applied learning; and
 4. Improving productivity by making buildings healthier for occupants, especially through the increased use of natural light.
- (3) The Kentucky Department of Education and all school districts undertaking the construction of new school buildings or the major renovation of existing school buildings are strongly encouraged to:
 - (a) Meet or exceed efficient school design standards in planning and designing all new buildings and major renovation projects;
 - (b) Use life-cycle cost analysis to evaluate different design proposals; and

- (c) Consider the possibility that each new school building or major renovation of a building could be a net zero building, either during the construction or renovation, or at a later date as resources become available.
- (4) ~~{(a) The Kentucky efficient school design trust fund is hereby created as a restricted account to be administered by the Department of Education.~~
- ~~(b) The account may receive contributions, gifts, donations, appropriations, and any other moneys made available for the account. Notwithstanding KRS 45.229, any moneys remaining in the account at the close of a fiscal year shall not lapse, but shall be carried forward into the succeeding fiscal year to be used for the purposes set forth in this section. Interest on moneys in the account shall accrue to the account.~~
- ~~(c) Moneys in the account shall be used to offset the initial additional cost, if any, associated with the construction or renovation of school buildings using efficient school design.~~
- ~~(d) The Kentucky Board of Education shall promulgate administrative regulations pursuant to KRS Chapter 13A to prescribe how a local school district may qualify for and use funds from the account created by this subsection.~~
- (5) The Department of Education shall develop and adopt guidelines for efficient school design, net zero buildings, and life-cycle cost analysis, including the identification of appropriate computer-based simulation programs for use in undertaking life-cycle cost analysis.
- (5){(6)} The Department of Education and the Office of Energy Policy shall assist school districts in:
- (a) Developing methods for measuring ongoing operating savings resulting from the use of efficient school design;
 - (b) Identifying sources for training for school staff and students to ensure that efficient school design features and components are fully utilized; and
 - (c) Identifying ways that efficient school design and its energy-saving components can be integrated into the school curriculum.
- ~~{(7) The Department of Education and the Office of Energy Policy shall, by November 1, 2010, and each year thereafter, for the fiscal year ending on June 30 of that year, prepare a report that shall be submitted to the Legislative Research Commission and the Governor. The report shall address new school buildings or building renovations and shall include but not be limited to the following:~~
- ~~(a) An assessment of the implementation of efficient school design within Kentucky's education system;~~
 - ~~(b) Documented energy savings from any buildings built using efficient school design or net zero school buildings in operation;~~
 - ~~(c) A list of the new or renovated school buildings completed or identified for future construction during the prior year using efficient school design, including the name of the school district, name of the school, total project cost, additional cost or savings, if any, associated with efficient school design features, and efficient school design features included in the project;~~
 - ~~(d) A list of all school buildings that operate as a net zero building, and school buildings which school districts plan to convert to net zero. The list shall include the name of the school district, the name of the school, the total cost associated with the school building becoming a net zero building, and the components that will be installed to make the building a net zero building;~~
 - ~~(e) Any recommendations relating to efficient school design; and~~
 - ~~(f) A list of new school buildings completed during the prior year without using efficient school design and an explanation of why efficient school design was not used.]~~
- ➔Section 2. KRS 198B.060 is amended to read as follows:
- (1) Each local government shall employ a building official or inspector and other code enforcement personnel as necessary, or shall contract for inspection and code enforcement services in accordance with subsections (8) and (11) of this section to enforce the Uniform State Building Code within the boundaries of its jurisdiction, except that permits, inspections, and certificates of occupancy shall not be mandatory for single-family residences unless a local government passes an ordinance requiring inspections of single-family residences.

- (2) (a) Local governments shall be responsible for the examination and approval or disapproval of plans and specifications for churches having a capacity of four hundred (400) or less persons, and six thousand (6,000) or less square feet of total floor area, and buildings of no more than three (3) stories in height, exclusive of attic and basement, which do not contain more than twenty thousand (20,000) square feet of floor area, and are not intended for educational, institutional, or high hazard occupancy; or assembly, business, or industrial occupancy in excess of one hundred (100) persons, except churches as stated in this subsection, or for use as a frozen food locker plant as defined in KRS 221.010.
- (b) Local governments shall be responsible for the issuance and revocation of building permits, licenses, certificates, and similar documents which cover activities within their area of responsibility, and the inspection of all buildings pursuant to this chapter and the Uniform State Building Code. Each local government issuing a building or demolition permit or an initial certificate of occupancy on a new structure shall send a copy of the permit or certificate to the commissioner for his or her use in maintaining an accurate housing inventory for Kentucky.
- (c) ***Notwithstanding the provisions of paragraph (a) of this subsection or the provisions of KRS 162.060, local governments may have jurisdiction for plan review, inspection, and enforcement responsibility over buildings intended for educational purposes, other than licensed day-care centers, but only when agreed to in writing by the local government and the department. Copies of documentation related to plan review, inspection, and enforcement shall be provided to the Kentucky Department of Education at the time they are issued to the district. Any agreements relating to expanded jurisdiction in effect on the effective date of this Act may be amended accordingly.***
- (3) Urban-county governments may determine service districts within their boundaries within which farm dwellings and other farm buildings, not used in the business of retail trade or as a place of regular employment for ten (10) or more people, shall be exempt from the requirements of the Uniform State Building Code. The determination may be reviewed and altered by the department.
- (4) (a) With the exception of single-family dwellings, the department shall be responsible for the examination and approval or disapproval of plans and specifications for all buildings which are not the responsibility of local governments. The department may issue and revoke permits, licenses, certificates, and similar documents within its area of responsibility, and shall have concurrent jurisdiction with local governments for the inspection of all buildings pursuant to this chapter and the Uniform State Building Code.
- (b) If the commissioner determines that the local jurisdiction is not adequately performing any portion of its program, the department may preempt that portion of a local program, except that the department shall not preempt or assert jurisdiction for the enforcement of the code on single-family dwellings. The commissioner shall explain his or her reasons for preemption in writing and provide a copy to the local jurisdiction.
- (c) The local jurisdiction may appeal the preemption directly to the commissioner, and the department shall review the appeal according to the procedures found in subsections (8) to (10) of KRS 198B.070. No preemption by the commissioner shall take place until a final decision has been issued in an appeal under this subsection.
- (d) If the department preempts any portion of a local program, it shall collect the fees applicable to that portion of the program.
- (5) (a) Any local government may petition the commissioner requesting that additional plan review functions be allocated to that local government. The petition shall include evidence of the local government's capability to perform additional plan review functions.
- (b) The commissioner, after review of the petition and supporting evidence, may grant or deny to the local government any part of a request for additional responsibility. If the commissioner denies any part of a petition, he or she shall explain his or her reasons for denial in writing, and provide a copy to the local government.
- (c) A local government may appeal the denial directly to the commissioner, and the department shall review the appeal according to the procedures found in subsections (8) to (10) of KRS 198B.070.

- (d) If the local government is granted additional responsibility by the commissioner, the department shall hold concurrent jurisdiction over the additional responsibility, but the local government shall collect any fees for functions it performs pursuant to the additional responsibility.
- (6) Any local government may also petition the commissioner requesting that plans and specifications inspection, building inspection, and approval responsibility relating to the application of local plumbing permits for local installations be allocated to the local government. The petition shall not be granted unless the local government has demonstrated to the commissioner that it can perform these functions in accordance with KRS 198B.050 to 198B.090.
- (7) The commissioner shall expedite the review of plans and specifications by assigning responsibilities and coordinating review activities among the department's various functional divisions so as to prevent unnecessary duplication in the review of plans and specifications.
- (8) No building shall be constructed in this state until a local building official and an official representing the department, if the department has jurisdiction, issue a permit for the construction. Nothing in this subsection shall require a single-family dwelling to be permitted or inspected unless a local government has established a building inspection program as set out in this section.
- (9) The local building official or the representative of the department shall issue a permit if the proposed building satisfies the requirements of the Uniform State Building Code and if the party desiring to construct the building has complied with all other legal requirements concerning the location and construction of the building. The applicant for a building permit, by the act of applying for the permit, shall be deemed to have consented to inspection by the local government or the department, of the building during construction and upon the completion of construction for the purpose of determining that the building is constructed in compliance with the Uniform State Building Code.
- (10)
 - (a) No permit for building, construction, reconstruction, renovation, demolition, or maintenance or for any activity related to building, construction, reconstruction, renovation, demolition, or maintenance shall be issued by any building department or by any political subdivision of the Commonwealth of Kentucky to any person seeking the permit unless the person shall assure, by affidavit, that all contractors and subcontractors employed, or that will be employed, on activity covered by the permit shall be in compliance with Kentucky requirements for workers' compensation insurance according to KRS Chapter 342 and unemployment insurance according to KRS Chapter 341.
 - (b) Any person who fails to comply with the assurances required under paragraph (a) of this subsection upon such finding by a court of competent jurisdiction, shall be fined an amount not to exceed four thousand dollars (\$4,000) or an amount equal to the sum of all uninsured and unsatisfied claims brought under the provisions of KRS Chapter 342 and unemployment insurance claims for which no wages were reported as required by KRS Chapter 341, whichever is greater.
 - (c) The penalty imposed in paragraph (b) of this subsection shall be enforced by the county attorney for the county in which the violation occurred.
- (11) A certified electrical inspector shall be employed by, or contracted for, or contracted with a local government having responsibility over buildings described in this section as part of its building inspection program. After a certified electrical inspector has been provided for by the local government or the department, no utility shall initiate permanent electrical service to any new building, or any building which has been moved, until a final certificate of approval has been issued by a certified electrical inspector. Unless the department shall notify the utility in writing as to which buildings are subject to department approval, it shall be presumed by the utility that the building is subject to the jurisdiction of the local government. However, nothing in this section shall prohibit the supply or use of necessary electrical services during the construction and testing process.
- (12) This section shall apply to industrialized building systems, but destructive disassembly of industrialized building systems which carry a seal of approval pursuant to a manufactured building law in the state in which they were manufactured, which seal of approval is accepted by the department, shall not be performed in order to conduct the tests or inspections.
- (13) No building on which construction was begun nor any industrialized building system on which site preparation and assembly were begun after the Uniform State Building Code became effective shall be occupied until the local building official or a representative of the department issues a certificate of occupancy certifying that the building was constructed in conformance with the standards of the Uniform State Building Code, or assembled or installed in conformance with applicable instructions. Nothing in this subsection shall be construed to

require a certificate of occupancy to be issued for any single-family dwelling unless a local government has established jurisdiction for the enforcement of the Uniform State Building Code under this section.

- (14) A local government may associate with other local governments, and may seek the technical assistance of other agencies or area development districts in order to provide for the local enforcement of the Uniform State Building Code.
- (15) Local governments or associations of local governments may contract with a person, firm, or company to perform the plans and specifications inspection or building inspection functions required of the local government by the provisions of this section if:
 - (a) The person performing the plans and specifications inspection is certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a certified plans and specifications inspector;
 - (b) The person performing the building inspection is certified by the department as having successfully completed the test requirements provided in KRS 198B.090 to practice as a certified building inspector;
 - (c) The person, firm, or company does not have a conflict of interest between its plan review or inspection functions and any other employment or business activities;
 - (d) The person performing the plumbing inspection is certified by the department as having successfully completed the requirements provided in KRS 318.140 to practice as a certified plumbing inspector; and
 - (e) The person, firm, or company does not have a conflict of interest between its plan review or inspection functions and any other employment or business activities.
- (16) If the department has reason to believe that an inspector is not enforcing, or is improperly enforcing, the provisions of the Kentucky building codes, it shall conduct an informal hearing to review the inspector's procedures and return in written form the required corrections resulting from the hearing to the inspector, or may take action to suspend or revoke the inspector's certificate.
- (17) If the inspector fails to comply within sixty (60) days of a written notification from the department that specifies the required corrections, the department shall suspend the inspector's certification until the inspector complies. Any action to suspend or revoke an inspector's certificate may be appealed to the department, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.
- (18) Each local government and the department may establish a schedule of fees for the functions performed under this chapter. The fees shall be designed to fully cover, but shall not exceed, the cost of the service performed. Fees payable to the department shall be paid into the State Treasury and credited to a trust and agency fund to be used by the department in carrying out this chapter. No part of this fund shall revert to the general fund of the Commonwealth.

➔Section 3. The following KRS section is repealed:

- 162.062 Plans for new public school buildings required to provide sufficient water bottle filling stations and drinking fountains -- Specifications for design and maintenance of water bottle filling stations and drinking fountains.

Signed by Governor March 31, 2022.