

1 AN ACT relating to the Capital Projects and Bond Oversight Committee.

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

3 ➔Section 1. KRS 45.800 is amended to read as follows:

4 (1) Except as otherwise provided in KRS 45.770(2)(b), prior to transferring funds from
5 any source to the allotment account of a capital construction project or major item
6 of equipment, the relevant entity head, or his designee, shall present to the Capital
7 Projects and Bond Oversight Committee, at least fourteen (14) days prior to the
8 committee meeting, for its review, specification of the amount of the proposed
9 transfer, documentation of the necessity for the transfer, and, with respect to capital
10 construction projects, documentation of:

11 (a) The amount already expended on the project prior to and during the current
12 biennium; and

13 (b) Any alterations made or planned in the project since its consideration by the
14 General Assembly during the most recent even-numbered-year regular
15 session.

16 (2) **(a)** Within thirty (30) days after submission to the committee of a proposed
17 capital construction and equipment purchase contingency account transfer ***or***
18 ***other proposed action***, the committee shall determine whether the amount of
19 the proposed transfer ***or other proposed action*** is reasonable and consistent
20 with KRS 45.770, whether the proposed transfer is necessary, and whether any
21 alterations made or planned in a project materially change the project as
22 considered and authorized by the General Assembly.

23 **(b) Once the committee has reviewed the proposal, it shall:**

24 **1. Approve the action;**

25 **2. Deny the action; or**

26 **3. Defer making a decision until the next regularly scheduled committee**
27 **meeting.**

1 (c) The committee may defer once without agreement with the entity that
2 submitted the proposal. The committee shall vote to either approve or deny
3 the proposal during the next committee meeting following the deferral.

4 (d) If the committee defers pursuant to paragraph (b) of this subsection, the
5 relevant entity head or designee shall take no action unless the committee:

- 6 1. Approves the proposed action;
- 7 2. Denies the proposed action;
- 8 3. Allows the agency to complete parts of the proposed action; or
- 9 4. Requests that the agency gather and present to the committee more
10 information or testimony related to the proposed action.

11 **(3) (a)** If the committee does not approve a proposed transfer or other proposed
12 action, the committee, unless the Legislative Research Commission directs
13 otherwise, shall promptly transmit its findings and determination to the head
14 of the entity that presented the proposal.

15 ~~(b)~~~~(3)~~ If the committee does not approve a proposed transfer or other proposed
16 action, the transfer shall not be made nor the action taken unless the relevant
17 entity's~~entity~~ head, or~~his~~ designee, shall:

- 18 ~~1.~~~~(a)~~ Revise the transfer or action to comply with the objections of the
19 committee;
- 20 ~~2.~~~~(b)~~ Cancel the transfer or action; or
- 21 ~~3.~~~~(c)~~ Determine to make the transfer or take the action not approved by
22 the committee.

23 (4) The decision made by the relevant entity head, or his designee, under the preceding
24 subsection shall be communicated to the committee in writing within thirty (30)
25 days of the committee's not approving the proposed transfer or other proposed
26 action.

27 (5) The committee, unless the Legislative Research Commission directs otherwise,

1 shall maintain records of its findings and determinations and the relevant entity
2 head's, or ~~his~~ designee's, report of ~~his~~ action on each proposed transfer from the
3 capital construction and equipment purchase contingency account. If the committee
4 determines that the amount of a proposed transfer is not reasonable or is not
5 consistent with KRS 45.770, or that the transfer is not necessary, or if the
6 committee finds that any alteration in a project materially changes the project as
7 considered and approved by the General Assembly, the committee's determination
8 and the action of the secretary of the Finance and Administration Cabinet, or other
9 appropriate entity head, on the transfer shall be transmitted to the appropriate
10 interim joint committees of the Legislative Research Commission and to the
11 General Assembly when next convened.

12 (6) The committee, unless the Legislative Research Commission directs otherwise,
13 shall maintain reports of purchases made under KRS 45.760(5), reports of transfers
14 made under KRS 45.760 to this section, reports of transfers made from the
15 emergency repair, maintenance, and replacement account, and a record of any
16 committee finding or recommendation relating to such purchases and transfers.

17 (7) The committee shall monitor the costs of state capital construction projects in
18 comparison with the costs of construction for the private sector to determine
19 whether the costs are comparable and, if not comparable, the reasons for any
20 difference. The committee shall consider contractors' charges to the state, land
21 acquisition costs, costs and availability of materials, cost and availability of labor,
22 and laws, regulations, and purchasing procedures pertaining to state capital
23 construction projects that are not applicable to construction for the private sector.
24 The committee's findings and recommendations shall be transmitted to the
25 appropriate interim joint committee of the Legislative Research Commission and to
26 the General Assembly when convened.

27 ➔Section 2. KRS 45.810 is amended to read as follows:

- 1 (1) Any state agency authorized to issue bonds shall, prior to the issuance of any bonds,
2 submit the proposed bond issue to the Capital Projects and Bond Oversight
3 Committee, at least fourteen (14) days prior to the committee meeting, for review
4 and recommendation. The Turnpike Authority shall be exempt from this review.
- 5 (2) The Capital Projects and Bond Oversight Committee shall require documentation of
6 the following:
- 7 (a) That the proposed bond project or subsequent use of bond funds is in
8 compliance with all applicable regulatory or statutory provisions;
- 9 (b) That the debt service fund source has been identified and approved by all
10 applicable authorities as provided by statute; and
- 11 (c) That the bond issue, if supported by appropriation, is consistent with the
12 branch budget bill.
- 13 (3) Once the committee has received the proposed bond issue and required
14 documentation, it shall:
- 15 (a) Approve the proposal;
16 (b) Deny the proposal; or
17 (c) Defer making a decision until the next regularly scheduled committee
18 meeting.
- 19 (4) The committee may defer once without agreement with the entity that submitted
20 the proposed bond issue. The committee shall vote to either approve or deny the
21 proposed bond issue during the next committee meeting following the deferral.
- 22 (5) If the committee defers pursuant to subsection (3) of this section, the relevant
23 entity head or designee shall take no action unless the committee:
- 24 (a) Approves the proposed bond issue;
25 (b) Denies the proposed bond issue;
26 (c) Allows the agency to complete parts of the proposed bond issue; or
27 (d) Requests that the agency gather and present to the committee more

1 *information or testimony related to the proposed bond issue.*

2 **(6)** If the committee does not recommend a proposed project for the use of bond
3 proceeds as provided in subsection (1) of this section, the project shall be referred to
4 the secretary of the Finance and Administration Cabinet, who shall:

- 5 (a) Revise the project in consideration of the committee's objections; or
6 (b) Cancel the project or the use of bond proceeds for the project; or
7 (c) Determine to proceed with the project.

8 ~~**(7)**~~ The decision of the secretary of the Finance and Administration Cabinet with
9 respect to the project or the bond funding for the project shall be transmitted to the
10 committee within thirty (30) days.

11 ~~**(8)**~~ Any changes in the bond project after review and approval by the committee
12 shall be transmitted to the next regularly scheduled meeting of the committee.

13 ~~**(9)**~~ The bonding authorities designated in subsection (1) of this section shall
14 submit an annual report to the committee at the end of each fiscal year, which shall
15 include:

- 16 (a) The principal amount of the bonds outstanding at the beginning of the fiscal
17 year;
18 (b) The amount of any bonds issued during the fiscal year;
19 (c) All payments of principal, interest, trustee fees, and any other fees, during the
20 fiscal year; and
21 (d) The principal balance of bonds outstanding at the end of the fiscal year.

22 ➔Section 3. KRS 26A.162 is amended to read as follows:

23 (1) The use allowance in the judicial branch budget recommendation submitted under
24 KRS 48.100 shall be determined as if bonds will be issued for a term of twenty (20)
25 years at the prevailing market rate, computed from the estimated date that the Court
26 of Justice will occupy the facility. If the market rate for the bonds has increased
27 when the bonds are to be sold, the director of the Administrative Office of the

1 Courts may approve an extension in the bond term, up to a total of twenty-five (25)
 2 years, but only as necessary to keep the annual use allowance within the budgeted
 3 amount. All bonds issued by any local unit of government for court facilities
 4 projects shall be limited to the term approved by the Administrative Office of the
 5 Courts.

6 (2) Before approving any bond issue for a term exceeding twenty-five (25) years, the
 7 director of the Administrative Office of the Courts shall submit a proposal for the
 8 extended term to the Interim Joint Committee on Appropriations and Revenue and
 9 the Capital Projects and Bond Oversight Committee. The proposal shall include a
 10 statement of the necessity for the extended bond term and the impact of the
 11 extended term on the project's budgeted scope and authorized annual use allowance.

12 (3) Within thirty (30) days after receiving a proposal to extend a bond term beyond
 13 twenty-five (25) years, the Interim Joint Committee on Appropriations and Revenue
 14 and the Capital Projects and Bond Oversight Committee shall ~~either~~ approve,
 15 disapprove, or defer making a decision until the next regularly scheduled
 16 committee meeting. ~~disapprove the proposal and~~ The committee shall then
 17 promptly notify the director of the Administrative Office of the Courts.

18 (4) Either committee may defer once without agreement with the agency that
 19 submitted the proposed bond issue. The deferring committee shall vote to either
 20 approve or deny the proposed bond issue during the next committee meeting
 21 following the deferral.

22 (5) If a committee defers pursuant to subsection (3) of this section, the relevant entity
 23 head or designee shall take no action unless the committee:

24 (a) Approves the proposed bond issue;

25 (b) Disapproves the proposed bond issue;

26 (c) Allows the agency to complete parts of the proposed bond issue; or

27 (d) Requests that the agency gather and present to the committee more

1 *information or testimony related to the proposed bond issue.*

2 **(6)** If either committee disapproves the proposal, the director of the Administrative
3 Office of the Courts shall take one (1) of the following actions and shall notify the
4 committee of its decision in writing within thirty (30) days:

- 5 (a) Disapprove and take no further action on the proposal;
6 (b) Revise the proposal to comply with the committee's objections; or
7 (c) Determine to approve and proceed with the proposal over the committee's
8 objection.

9 ➔Section 4. KRS 26A.166 is amended to read as follows:

10 (1) Before the Court of Justice gives final approval to an increase in the budgeted scope
11 of an authorized project or project pool listed in a judicial branch budget bill which
12 would result in an increased use allowance, the director of the Administrative
13 Office of the Courts shall submit a proposal for the increase to the Capital Projects
14 and Bond Oversight Committee at least fourteen (14) days prior to the committee
15 meeting. The proposal shall include:

- 16 (a) The multiyear use allowance specified in the judicial branch budget bill;
17 (b) The proposed increase in the use allowance;
18 (c) The reasons and necessity for the proposed increase;
19 (d) A statement as to whether or how the proposed use of funds conforms with
20 the requirements of the law; and
21 (e) Any other information that the committee requests.

22 (2) Within thirty (30) days after receiving a proposal to increase the use allowance, the
23 Capital Projects and Bond Oversight Committee shall ~~either~~ approve, ~~or~~
24 disapprove, *or defer making a decision until the next regularly scheduled*
25 *committee meeting.* ~~the proposal and~~ *The committee* shall then promptly notify
26 the director of the Administrative office of the Courts of its decision.

27 (3) *The committee may defer once without agreement with the entity that submitted*

1 *the proposal. The committee shall vote to either approve or deny the proposal*
 2 *during the next committee meeting following the deferral.*

3 *(4) If a committee defers pursuant to subsection (2) of this section, the relevant entity*
 4 *head or designee shall take no action unless the committee:*

5 *(a) Approves the proposal;*

6 *(b) Disapproves the proposal;*

7 *(c) Allows the agency to complete parts of the proposal; or*

8 *(d) Requests that the agency gather and present to the committee more*
 9 *information or testimony related to the proposal.*

10 *(5)* If the Capital Projects and Bond Oversight Committee disapproves the proposal, the
 11 director of the Administrative Office of the Courts shall take one (1) of the
 12 following actions and shall notify the committee of its decision in writing within
 13 thirty (30) days of receiving the committee's notice of disapproval:

14 (a) Revise the proposal to comply with the committee's objections;

15 (b) Cancel and take no further action on the proposal; or

16 (c) Determine to implement the proposal over the committee's objection.

17 ~~*(6)*~~~~*[(4)]*~~ The Administrative Office of the Courts shall report to the Capital Projects
 18 and Bond Oversight Committee within thirty (30) days of any action taken by the
 19 Court of Justice to approve a scope increase of a project within a pool which would
 20 increase the use allowance for that project.

21 ~~*(7)*~~~~*[(5)]*~~ The Capital Projects and Bond Oversight Committee shall maintain records of
 22 proposals, findings, decisions, and actions taken under this section. When
 23 appropriate, the committee shall provide this information to other legislative
 24 committees or to the General Assembly.

25 ➔Section 5. KRS 45.760 is amended to read as follows:

26 The provisions of any other law notwithstanding:

27 (1) During any biennium the amount allotted, from all sources, for expenditure on any

1 project in the state capital construction program for that biennium shall not exceed
2 the estimated cost of the project during that biennium, as shown in any branch
3 budget bill enacted by the General Assembly, except as provided in this section and
4 KRS 45.770 and 45.780.

5 (2) When the General Assembly disapproves a capital project or item of equipment that
6 was previously approved, it shall be eliminated as a capital project or major item of
7 equipment in the Capital Projects Program. General fund moneys appropriated for
8 that project or item of equipment but not allotted, and general fund moneys allotted
9 but not expended to the project or equipment account, shall be transferred to the
10 capital construction and equipment purchase contingency account in the capital
11 construction fund. Agency or federal funds for a disapproved project or item, that
12 have been appropriated but unallotted or allotted but unexpended, shall be returned
13 to the appropriate agency fund. Road fund moneys for a disapproved project or item
14 that have been appropriated but unallotted or allotted but unexpended, shall be
15 returned to the Road Fund Surplus Account.

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

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

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

27 (a) Moneys specifically budgeted and appropriated by the General Assembly for

- 1 another purpose shall not be reallocated for expenditure on the item; moneys
2 utilized shall not jeopardize any existing program and shall not require the use
3 of any current general funds specifically dedicated to existing programs;
- 4 (b) Funds are available for the purchase and the method of financing the purchase
5 will not require an additional appropriation of state funds to acquire the item;
6 and
- 7 (c) The purchasing agency shall, within thirty (30) days after making the
8 purchase, report the purchase to the Capital Projects and Bond Oversight
9 Committee. The report shall include a description of the item, the purpose for
10 which it will be used, the necessity for the purchase, and the amount expended
11 for the purchase from each source of funds used.
- 12 (6) Moneys from any source may be transferred to the allotment account of any capital
13 project authorized by the General Assembly under this section, subject to the
14 following conditions and procedures:
- 15 (a) The total amount transferred shall not exceed fifteen percent (15%) of the
16 amount authorized by the General Assembly unless:
- 17 1. The source of funds is private or federal; or
18 2. An unforeseen decision by a federal or state court or regulatory agency
19 requires the transfer.
- 20 (b) Moneys specifically budgeted and appropriated by the General Assembly for
21 another purpose shall not be allotted or reallocated for expenditure on the
22 capital project.
- 23 (c) Moneys utilized shall not jeopardize any existing program and shall not
24 require the use of any current general funds specifically dedicated to existing
25 programs.
- 26 (d) The relevant entity head, or ~~his~~ designee, shall submit the capital project to
27 the Capital Projects and Bond Oversight Committee at least fourteen (14) days

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

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

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

12 (a) A complete list and summary description of every capital construction project
13 and major item of equipment not completed as of June 30 of the prior fiscal
14 year; and

15 (b) For each project and major item of equipment, as of July 1, of the current
16 fiscal year:

17 1. The project phase;

18 2. The project account number, project name, and any other term employed
19 to identify the project or major item of equipment;

20 3. The available balance in the project or major item of equipment account,
21 and any sums considered available for that project or major item of
22 equipment;

23 4. A statement of the transfers of funds to or from the project or major item
24 of equipment account; and, any account to which transfers from each
25 project or major item of equipment has been made;

26 5. The year in which the project or major item of equipment was approved,
27 with specific reference to the legislation by which the project or item

1 was approved;

2 6. Total expenditure on the project or major item of equipment;

3 7. The current estimated completion cost, including the amount required
4 for annual inflation; and

5 8. A statement that additional funds for the completion of the project or
6 major item of equipment are or are not required; and, if required, why
7 sufficient funds for completion are not available; and

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

11 (10) When the General Assembly authorizes a capital construction item in the capital
12 construction section of a branch budget bill, the entity head charged with executing
13 the branch budget shall construct the capital construction item according to the
14 requirements set forth in the branch budget bill, supporting documentation
15 considered by the General Assembly, and branch budget records. The entity head
16 shall not deviate from these requirements with regard to:

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

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

22 ➔Section 6. KRS 45A.870 is amended to read as follows:

23 (1) Notwithstanding the other provisions of KRS 45A.840 to 45A.879, this section
24 shall govern the selection of an underwriter or a bond counsel to take advantage of
25 an innovation developed by that firm.

26 (2) The executive director may discuss with an underwriter or a bond counsel an
27 innovation which the firm has developed or is developing.

- 1 (3) If the executive director concludes that the Commonwealth will benefit from using
2 the innovation, then the executive director shall negotiate with the firm for it to
3 provide the innovation to the Commonwealth in exchange for the firm's
4 employment on certain bond issues.
- 5 (4) After an agreement is reached, but before it is executed, the executive director shall
6 seek the review and recommendation of the Capital Projects and Bond Oversight
7 Committee.
- 8 (5) Once the committee has reviewed the innovation, it shall:
9 (a) Approve the innovation;
10 (b) Deny the innovation; or
11 (c) Defer making a decision until the next regularly scheduled committee
12 meeting.
- 13 (6) The committee may defer once without agreement with the entity that submitted
14 the innovation. The committee shall vote to either approve or deny the innovation
15 during the next committee meeting following the deferral.
- 16 (7) If the committee defers pursuant to subsection (5) of this section, the relevant
17 entity head or designee shall take no action unless the committee:
18 (a) Approves the proposed innovation;
19 (b) Denies the proposed innovation;
20 (c) Allows the agency to complete parts of the proposed innovation; or
21 (d) Requests that the agency gather and present to the committee more
22 information or testimony related to the proposed innovation.
- 23 (8) If the committee does not recommend the agreement, the agreement shall be
24 referred to the secretary of the Finance and Administration Cabinet who shall:
25 (a) Revise the agreement in consideration of the committee's objections;
26 (b) Cancel the agreement; or
27 (c) Determine to enter into the agreement.

1 ~~(9)~~~~(6)~~ Within thirty (30) days after the secretary reaches his decision, it shall be
2 transmitted to the committee.

3 ➔Section 7. KRS 48.111 is amended to read as follows:

- 4 (1) The Governor shall include in the executive branch budget recommendation and in
5 the draft branch budget bill for the executive branch submitted to each even-
6 numbered-year regular session of the General Assembly pursuant to KRS 48.110,
7 for the biennium period beginning July 1, 1992, and for each biennium thereafter, a
8 recommended program for rental of any space for which the annual rental cost will
9 exceed two hundred thousand dollars (\$200,000).
- 10 (2) The recommended program for leased space shall include:
- 11 (a) A summary description of each specific two hundred thousand dollar
12 (\$200,000) lease project recommended for funding during the biennium; and
- 13 (b) For each project:
- 14 1. The name of the agency for which space will be leased;
 - 15 2. The purpose and justification for the lease;
 - 16 3. Whether the lease contains a purchase option which will be exercised
17 during the biennium pursuant to KRS 56.806(4) and the estimated
18 purchase price;
 - 19 4. a. Whether the lease contains a lease-purchase which will be
20 completed during the biennium pursuant to KRS 56.806(5) prior to
21 the total amortization, through lease payments, of the fair market
22 value of the leased property as of the time the lessor and the
23 Commonwealth entered into the lease; and
 - 24 b. The estimated sum of money that will have to be paid in addition
25 to rent paid to complete the purchase;
 - 26 5. The estimated cost of the lease; and
 - 27 6. The recommended sources of funds.

- 1 (3) All information required by subsection (2) of this section shall be included in the
2 executive branch budget recommendation. The branch budget bill for the executive
3 branch shall contain only the information specified in subparagraphs 1. and 2. of
4 subsection (2)(b) of this section.
- 5 (4) Except as provided in subsection (5) of this section, no lease with an annual rental
6 cost which will exceed two hundred thousand dollars (\$200,000) shall be executed
7 unless the lease has been identified and included in the branch budget bill. The
8 branch budget bill for the executive branch shall authorize the expenditure by the
9 budget unit that will occupy the premises.
- 10 (5) A lease with an annual rental cost exceeding two hundred thousand dollars
11 (\$200,000) may be authorized even though it is not specifically listed in the branch
12 budget bill, subject to the following conditions and procedures:
- 13 (a) A lease is awarded as the result of the consolidation of leases in which case, in
14 addition to subsection (6) of this section, the provisions of KRS 56.803 and
15 56.823(2) or of KRS 56.805(2) and 56.823(3) shall apply, as appropriate; or
- 16 (b) A lease is awarded as the result of an agency occupying substantially less
17 space than it should, under the standards for space set by the Department for
18 Facilities Management, in which case, in addition to subsection (6) of this
19 section, the provisions of KRS 56.803 and 56.823(2) or of KRS 56.805(2) and
20 56.823(3) shall apply, as appropriate. The space allocated under the new lease
21 shall not exceed the space which should be allocated pursuant to the standards
22 for space; or
- 23 (c) A lease with an annual rental cost of less than two hundred thousand dollars
24 (\$200,000) is renewed or replaced for an annual rental cost that exceeds two
25 hundred thousand dollars (\$200,000), but only if that request and subsequent
26 renewal or replacement lease is:
- 27 1. From the same state agency lessee whose initial lease was under two

- 1 hundred thousand dollars (\$200,000);
- 2 2. For the same or substantially the same square footage as the initial lease
- 3 that was under two hundred thousand dollars (\$200,000);
- 4 3. The result of the competitive leasing process authorized by KRS 56.803;
- 5 4. For an annual lease payment of less than two hundred and fifty thousand
- 6 dollars (\$250,000); and
- 7 5. Effective only until June 30 of the next even-numbered year unless
- 8 authorized in the branch budget bill; or
- 9 (d) A lease is awarded as the result of an emergency in which case the provisions
- 10 of KRS 56.805(3) and (4) and KRS 56.823(5) shall apply; or
- 11 (e) 1. Fifty percent (50%) or more of the actual cost shall be funded by federal
- 12 or private funds; and
- 13 2. Money specifically budgeted and appropriated by the General Assembly
- 14 for another purpose shall not be allotted or reallocated for expenditure on
- 15 the lease. Money utilized shall not jeopardize any existing program and
- 16 shall not require the use of current general funds specifically dedicated
- 17 to existing programs; and
- 18 3. The Finance and Administration Cabinet shall comply with the
- 19 requirements of subsection (6) of this section.
- 20 (6) (a) No later than five (5) business days after an advertisement for lease proposals
- 21 pursuant to paragraph (a) or (b) of subsection (5) of this section, the cabinet
- 22 shall provide the Capital Projects and Bond Oversight Committee with a copy
- 23 of the advertisement and shall state in writing to the committee that the copy
- 24 is being provided in compliance with this paragraph.
- 25 (b) Prior to final authorization of a lease pursuant to paragraph (e) of subsection
- 26 (5) of this section, the cabinet shall report to the Capital Projects and Bond
- 27 Oversight Committee:

- 1 1. The name of the agency for which space will be leased;
- 2 2. The purpose and justification for the lease;
- 3 3. The estimated cost of the lease;
- 4 4. The source of funds; and
- 5 5. Whether the requirements of paragraph (e) of subsection (5) of this
- 6 section have been met.
- 7 (c) Within thirty (30) days after the report required in paragraph (b) of this
- 8 subsection has been submitted to the committee, the committee shall conduct
- 9 its review and decide whether to approve, ~~or~~ disapprove, or defer the
- 10 proposed lease authorization ~~[-]~~ until the next regularly scheduled committee
- 11 meeting. The Legislative Research Commission shall promptly transmit the
- 12 committee's findings and determinations to the Finance and Administration
- 13 Cabinet.
- 14 (d) The committee may defer once without agreement with the entity that
- 15 submitted the proposed lease authorization. The committee shall vote to
- 16 either approve or deny the proposed lease authorization during the next
- 17 committee meeting following the deferral.
- 18 (e) If the committee defers pursuant to paragraph (c) of this subsection, the
- 19 relevant agency head or designee shall take no action unless the committee:
- 20 1. Approves the proposed lease authorization;
- 21 2. Denies the proposed lease authorization;
- 22 3. Allows the agency to complete parts of the proposed lease
- 23 authorization; or
- 24 4. Requests that the agency gather and present to the committee more
- 25 information or testimony related to the proposed lease authorization.
- 26 (f) If the committee disapproves a proposed lease authorization, the secretary of
- 27 the Finance and Administration Cabinet shall:

- 1 1. Revise the proposed lease authorization to comply with the objection of
- 2 the committee; or
- 3 2. Cancel the proposed lease authorization; or
- 4 3. Determine to proceed with the proposed lease authorization disapproved
- 5 by the committee.

6 ~~(g)~~~~(e)~~ The decision made by the secretary of the Finance and Administration
7 Cabinet under paragraph (d) of this subsection shall be communicated to the
8 committee in writing within thirty (30) days of the committee's disapproval.

9 ~~(h)~~~~(f)~~ The Legislative Research Commission shall maintain records of the
10 committee's disapproval of a proposed lease authorization and the cabinet's
11 report of its actions on a disapproved proposed lease authorization. If the
12 committee disapproves a proposed lease authorization, the Legislative
13 Research Commission shall transmit the committee's disapproval and the
14 cabinet's action on the disapproval to the appropriate interim joint committee
15 of the Legislative Research Commission and to the General Assembly when
16 next convened in an even-numbered-year regular session.

17 ~~(i)~~~~(g)~~ If, after committee review, a lease is authorized, the lease shall be
18 awarded pursuant to this section and KRS 43.050 and 56.800 to 56.823 and
19 shall be subsequently reviewed pursuant to the appropriate subsection of KRS
20 56.823.

21 ➔Section 8. KRS 56.832 is amended to read as follows:

- 22 (1) The term "foreign jurisdiction" for the purpose of this section means states other
23 than Kentucky, a territory of the United States, or a foreign country.
- 24 (2) The Finance and Administration Cabinet shall promulgate administrative
25 regulations relating to the lease of real property in a foreign jurisdiction.
- 26 (3) When an agency determines it has a need to lease office space in a foreign
27 jurisdiction, the agency shall submit a request in writing to the Department for

1 Facilities and Support Services within the Finance and Administration Cabinet.

2 (4) The Department for Facilities and Support Services shall review the space request
3 and draw up general requirement specifications. The general requirement
4 specifications shall be kept on file by the department.

5 (5) (a) If the Department for Facilities and Support Services determines that it is not
6 feasible to lease the space through competitive sealed bid, the Department for
7 Facilities and Support Services may, under Finance and Administration
8 Cabinet administrative regulations, acquire leased space through
9 noncompetitive negotiation.

10 (b) If competitive sealed bid is determined to be unfeasible, the commissioner of
11 the Department for Facilities and Support Services shall put in writing the
12 justification for his determination prior to award of the lease. This writing
13 shall be kept on file by the department.

14 (6) Any lease awarded under this section shall include a thirty (30) day cancellation
15 notice that will allow the Commonwealth the right to cancel the lease upon written
16 notice within thirty (30) days.

17 (7) Any lease proposed to be awarded under this section, including all lease renewals
18 for which the annual rental cost will exceed one hundred thousand dollars
19 (\$100,000), shall be reported to the Capital Projects and Bond Oversight Committee
20 after drafting of the lease is completed but before execution. The report shall
21 include:

22 (a) The name of the agency that will occupy the premises;

23 (b) The name of the lessor;

24 (c) The purpose and justification for the lease;

25 (d) The terms of the lease;

26 (e) An explanation of why the Finance and Administration Cabinet chose this
27 lessor; and

1 (f) A survey and cost comparison of similar rental properties within the area.

2 (8) Within thirty (30) days after the report required in subsection (7) of this section has
 3 been submitted to the committee, the committee shall conduct its review and decide
 4 whether to approve, ~~or~~ disapprove, or defer the proposed lease authorization until
 5 the next regularly scheduled committee meeting.

6 (9) The committee may defer once without agreement with the entity that submitted
 7 the proposed lease authorization. The committee shall vote to either approve or
 8 deny the proposed lease authorization during the next committee meeting
 9 following the deferral.

10 (10) If the committee defers pursuant to subsection (8) of this section, the relevant
 11 agency head or designee shall take no action unless the committee:

12 (a) Approves the proposed lease authorization;

13 (b) Denies the proposed lease authorization;

14 (c) Allows the agency to complete parts of the proposed lease authorization; or

15 (d) Requests that the agency gather and present to the committee more
 16 information and testimony related to the proposed lease authorization.

17 (11) If the committee disapproves a proposed lease authorization, the secretary of the
 18 Finance and Administration Cabinet shall:

19 (a) Revise the proposed lease authorization to comply with the objection of the
 20 committee;

21 (b) Cancel the proposed lease authorization; or

22 (c) Determine to proceed with the proposed lease authorization disapproved by
 23 the committee.

24 (12)~~(9)~~ The decision made by the secretary of the Finance and Administration Cabinet
 25 under subsection (11)~~(8)~~ of this section shall be communicated to the committee
 26 in writing within thirty (30) days of the committee's disapproval.

27 (13)~~(10)~~ Except when another lease term is approved by the secretary of the Finance

1 and Administration Cabinet, the terms of the lease entered into may provide for an
2 initial lease term beginning on a date stated and ending on June 30 in each year in
3 which the General Assembly has convened in an even-numbered-year regular
4 session and appropriated funds for the operation of the state government during the
5 next ensuing biennium. The lease may grant the state successive options for the
6 automatic renewal of the lease upon the same terms and conditions for additional
7 renewal periods of twenty-four (24) months each, not to exceed three (3) automatic
8 renewal periods. Any lease containing a provision for the automatic renewal of the
9 lease after the expiration of the initial lease term shall also provide that the state
10 may, upon written notice given to the lessor on or before April 15 of the year in
11 which the initial or any automatic renewal term expires, elect not to exercise its
12 option for the automatic renewal of the lease term. Subject to the agreement of the
13 lessor, a lease in which the final automatic renewal period has expired, or will
14 expire as of the end of the then current term, may be renewed upon the same terms
15 and conditions, provisions of KRS 56.803 to the contrary notwithstanding.

16 ➔Section 9. KRS 154.15-020 is amended to read as follows:

- 17 (1) The Kentucky Communications Network Authority is established and shall be
18 attached to the Office of the Governor. The authority shall be headed by an
19 executive director who shall be hired by the board and approved by the Governor.
- 20 (2) Notwithstanding KRS 42.726, the duties of the authority shall be to:
- 21 (a) Oversee and maintain KentuckyWired, the Commonwealth's open-access
22 broadband network;
- 23 (b) Manage the master agreement establishing the public-private partnership
24 between the Commonwealth and its private industry partner or partners. The
25 purpose of the agreement is to design, engineer, build, operate, maintain, and
26 upgrade the network;
- 27 (c) Provide network connectivity to public agencies;

- 1 (d) Offer access to entities eligible to utilize excess capacity on the network;
- 2 (e) Manage other aspects of the network and its utilization through the executive
3 director and with oversight and input from the board established in KRS
4 154.15-030 and the advisory group established in this section;
- 5 (f) Promulgate administrative regulations pursuant to KRS Chapter 13A
6 necessary to implement the purposes of this subchapter;
- 7 (g) Enter into contracts with public and private entities to carry out its duties and
8 responsibilities. A contract or other agreement involving the acquisition or
9 disposition of a property interest by the Commonwealth shall be signed by the
10 secretary of the Finance and Administration Cabinet. KRS Chapters 45A and
11 56 may require the secretary's signature on other contracts or agreements;
- 12 (h) Provide program management services ensuring the financial viability of the
13 master agreement and related contracts and agreements, including grant
14 administration, contract compliance and oversight, community planning
15 support, and constituent services;
- 16 (i) Seek out, secure, and manage funding sources for the network; and
- 17 (j) Create an advisory group, including major stakeholders, to provide input and
18 feedback on issues important to the user community and to the long-term
19 sustainability of the project and the network. The advisory group shall be
20 administratively attached to and managed by the authority. The advisory group
21 shall include but not be limited to representatives of:
- 22 1. The Department of Education;
 - 23 2. The Council on Postsecondary Education;
 - 24 3. The Cabinet for Economic Development;
 - 25 4. The Cabinet for Health and Family Services;
 - 26 5. The Transportation Cabinet;
 - 27 6. The Justice and Public Safety Cabinet;

- 1 7. The Finance and Administration Cabinet;
 - 2 8. The Administrative Office of the Courts;
 - 3 9. The Legislative Research Commission;
 - 4 10. Institutions of higher education;
 - 5 11. Local government entities;
 - 6 12. Libraries;
 - 7 13. Public health care institutions or agencies;
 - 8 14. Kentucky Educational Television; and
 - 9 15. Others whose input will benefit the network.
- 10 (3) With the approval of the board, the executive director may hire additional officers
11 and other personnel necessary for the proper functioning of the authority, fix their
12 salaries, and prescribe their duties. The executive director and persons employed by
13 the authority shall not be subject to the provisions of KRS Chapter 18A.
- 14 (4) (a) With the approval of the board, the executive director may make, execute, and
15 effectuate contracts, leveraging future revenues from provision of
16 government-to-government services and sale or lease of excess capacity, to
17 incur debt in the name of the authority and enter into financing agreements
18 with the Commonwealth, agencies of the Commonwealth, lending
19 institutions, investors, or investing entities.
- 20 (b) The total amount of debt or financing under this subsection shall not exceed
21 one hundred ten million dollars (\$110,000,000), and shall not leverage any
22 future revenues committed to the repayment of any other debt, or expected to
23 be used for the repayment of any other debt, as of the time the debt or
24 financing is entered into.
- 25 (c) Any proposed debt or financing under this subsection shall be submitted to the
26 Capital Projects and Bond Oversight Committee for review at least fourteen
27 (14) days prior to the committee meeting, *subject to committee review as*

1 provided in Section 1 of this Act.

2 (d) If any debt or financing is incurred under this subsection, the authority shall
3 provide to the Legislative Research Commission:

- 4 1. Within thirty (30) days of entering into a debt or financing agreement, a
5 copy of the agreement; and
- 6 2. On January 1, April 1, July 1, and October 1 of each year that the debt or
7 financing is outstanding:
 - 8 a. The amount of principal and interest remaining on the debt or
9 financing;
 - 10 b. The use to which the capital gained from the debt or financing has
11 been put; and
 - 12 c. Any amendments, if any, to the original debt or financing
13 instruments or agreements.

14 ➔Section 10. KRS 154A.600 is amended to read as follows:

15 (1) The corporation may purchase, lease, or lease-purchase such goods or services as
16 are necessary for effectuating the purposes of this chapter. Applicable leases,
17 purchases, and lease-purchases shall be reported to the Capital Projects and Bond
18 Oversight Committee~~[capital projects and bond oversight committee]~~ for its review
19 and determination in accordance with the provisions of KRS 45.750 to 45.810. The
20 corporation shall not contract with any person or entity for the total operation and
21 administration of the state lottery, but may make procurements which integrate
22 functions such as lottery game design, lottery ticket distribution to retailers, supply
23 of goods and services, and advertising. In all procurement decisions, the corporation
24 shall take into account the particularly sensitive nature of the state lottery and shall
25 act to promote and ensure security, honesty, fairness and integrity in the operation
26 and administration of the lottery and the objectives of raising net proceeds for the
27 benefit of the public purpose described in this chapter.

- 1 (2) The corporation shall investigate the financial responsibility, security, and integrity
2 of any person who submits a bid, proposal or offer as part of a major procurement.
3 At the time of submitting such bid, proposal, or offer to the corporation, the
4 corporation may require the following items:
- 5 (a) A disclosure of the vendor's name and address and, as applicable, the name
6 and address of the following:
- 7 1. If the vendor is a corporation, the officers, directors, and each
8 stockholder in such corporation; except that, in the case of owners of
9 equity securities of a publicly traded corporation, only the names and
10 addresses of those known to the corporation to own beneficially five
11 percent (5%) or more of such securities need be disclosed;
 - 12 2. If the vendor is a trust, the trustee and all persons entitled to receive
13 income or benefit from the trust;
 - 14 3. If the vendor is an association, the members, officers, and directors; and
 - 15 4. If the vendor is a partnership or joint venture, all of the general partners,
16 limited partners, or joint venturers.
- 17 (b) A disclosure of all the states and jurisdictions in which the vendor does
18 business, and the nature of the business for each such state or jurisdiction.
- 19 (c) A disclosure of all the states and jurisdictions in which the vendor has
20 contracts to supply gaming goods or services, including, but not limited to,
21 lottery goods and services, and the nature of the goods or services involved for
22 each such state or jurisdiction.
- 23 (d) A disclosure of all the states and jurisdictions in which the vendor has applied
24 for, has sought renewal of, has received, has been denied, has pending, or has
25 had revoked a gaming license of any kind, and the disposition of such in each
26 such state or jurisdiction. If any gaming license has been revoked or has not
27 been renewed or any gaming license application has been either denied or is

1 pending and has remained pending for more than six (6) months, all of the
2 facts and circumstances underlying the failure to receive such a license shall
3 be disclosed.

4 (e) A disclosure of the details of any finding of guilt, in a state or federal court,
5 against the vendor for any felony or any other criminal offense other than a
6 traffic violation.

7 (f) A disclosure of the details of any bankruptcy, insolvency, reorganization, or
8 any pending litigation of the vendor.

9 (g) Such additional disclosures and information as the corporation may determine
10 to be appropriate for the procurement involved. If the vendor subcontracts any
11 substantial portion of the work to be performed under the contract to a
12 subcontractor, the vendor shall disclose all of the information required by this
13 subsection for the subcontractor as if the subcontractor were itself a vendor.

14 (3) A contract for a procurement with any vendor subject to subsection (2) of this
15 section who has not complied with the disclosure requirements described in
16 subsection (2) of this section shall not be entered into, and any contract with such a
17 vendor is unenforceable. Any contract with a vendor who does not comply with
18 such requirements for periodically updating such disclosures during the tenure of
19 contract as may be specified in such contract shall be terminated by the corporation.
20 This subsection and subsection (2) of this section shall be construed broadly and
21 liberally to achieve the ends of full disclosure of all information necessary to allow
22 for a full and complete evaluation by the corporation of the competence, integrity,
23 background and character of vendors for major procurements.

24 (4) A contract shall not be entered into with any vendor who has been found guilty of a
25 felony committed within the preceding ten (10) years, unless the corporation
26 determines that:

27 (a) The vendor has been pardoned or the vendor's civil rights have been restored;

1 and

2 (b) Subsequent to such findings of guilt the vendor has engaged in the kind of
3 law-abiding commerce and good citizenship that would reflect well upon the
4 integrity of the lottery; or

5 (c) If the vendor is a firm, association, partnership, trust, corporation or other
6 entity, the vendor has terminated its relationship with the individual whose
7 actions directly contributed to the vendor's guilt.

8 (5) Each vendor shall, at the execution of the contract with the corporation, post a
9 performance bond or letter of credit from a bank acceptable to the corporation, in an
10 amount equal to the full amount estimated to be paid annually to the vendor under
11 the contract. In lieu of the bond, a vendor may, to assure the faithful performance of
12 its obligations, deposit and maintain with the State Treasurer securities that are
13 interest bearing or accruing and that, with the exception of those specified in
14 paragraph (a) or (b) of this subsection, are rated in one (1) of the three (3) highest
15 classifications by an established nationally recognized investment rating service.
16 Securities eligible under this subsection are limited to:

17 (a) Certificates of deposit issued by solvent banks or savings associations
18 organized and existing under the laws of this state or under the laws of the
19 United States and having their principal place of business in this state;

20 (b) United States bonds, notes, and bills for which the full faith and credit of the
21 government of the United States is pledged for the payment of principal and
22 interest;

23 (c) General obligation bonds and notes of any political subdivision of the state; or

24 (d) Corporate bonds of any corporation that is not an affiliate or subsidiary of the
25 depositor. Such securities shall be held in trust and shall have at all times a
26 market value at least equal to the full amount estimated to be paid annually to
27 the lottery vendor under contract.

1 (6) Every contract entered into by the corporation pursuant to this section shall contain
2 a provision for payment of liquidated damages to the corporation for any breach of
3 contract by the vendor.

4 (7) Each vendor shall be qualified to do business in this state and shall file appropriate
5 tax returns as provided by the laws of this state. All contracts under this section
6 shall be governed by the laws of this state.

7 ➔Section 11. KRS 45.795 is amended to read as follows:

8 (1) In reviewing a project, the committee shall determine whether the project has met
9 all the relevant requirements of:

10 (a) KRS 45.750 to 45.816;

11 (b) KRS 56.800 to 56.823; and

12 (c) Any other statutes relating to the committee's oversight of:

13 1. Capital projects;

14 2. The allotment and expenditure of funds from the emergency repair,
15 maintenance, and replacement account and the capital construction and
16 equipment purchase contingency account;

17 3. The state's acquisition of capital assets, including the lease of real
18 property;

19 4. The issuance of bonds by the Commonwealth, and the related individual
20 projects; and

21 5. Bonds issued by or on behalf of local school districts.

22 (2) If the committee determines that any of the requirements in subsection (1) of this
23 section have not been met, the committee may, by majority vote, request that the
24 Legislative Research Commission file a civil court proceeding to seek an injunction
25 to prohibit further action on the capital project, the acquisition of the capital asset,
26 the initiation or modification of the lease of real property, the bond issue, or the
27 allotment or expenditure of funds from the capital construction emergency or

- 1 contingency accounts.
- 2 (3) The committee may take action requesting the Legislative Research Commission to
- 3 seek an injunction before, during, or after its compliance with the provisions of
- 4 KRS 45.800~~[(2)]~~ or ~~[KRS]~~ 45.810~~[(3)]~~, where applicable.