

1 AN ACT relating to special purpose governmental entities.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) This section applies to any ad valorem tax or fee, levied by a special purpose*  
6 *governmental entity other than an air board established or operating under KRS*  
7 *183.132 to 183.160, that is not otherwise required by statute or ordinance to be*  
8 *adopted or approved through an official act of an establishing entity.*

9 *(2) As used in this section, "compensating tax rate" has the same meaning as in*  
10 *KRS 132.010 and applies to all special purpose governmental entities with the*  
11 *authority to levy ad valorem taxes, regardless of whether the special purpose*  
12 *governmental entity is subject to Section 2 of this Act or any other provision of*  
13 *the Kentucky Revised Statutes that requires advertisement or allows for voter*  
14 *recall.*

15 *(3) (a) Notwithstanding any other provision of the Kentucky Revised Statutes, any*  
16 *special purpose governmental entity, other than an air board established or*  
17 *operating under KRS 183.132 to 183.160, proposing to levy:*

18 *1. An ad valorem tax rate or rates for the upcoming year that are*  
19 *projected to generate more revenues than would be generated by the*  
20 *levy of the compensating tax rate; or*

21 *2. An ad valorem tax for the first time;*  
22 *shall submit in writing the proposed rate or rates to the establishing entity.*

23 *If the establishing entity includes more than one (1) city or county, or if*  
24 *there is no establishing entity, the rate or rates shall be submitted to the*  
25 *governing body of the city or county in which the largest number of citizens*  
26 *served by the special purpose governmental entity reside. If the special*  
27 *purpose governmental entity serves only the residents of a city, the notice*

1 shall be provided to the governing body of that city. The rate or rates shall  
2 be submitted no later than seven (7) days after the adoption of the  
3 ordinance, order, resolution, or motion to levy a tax rate that exceeds the  
4 compensating tax rate, or to levy a new ad valorem tax.

5 (b) The governing body of the city or county to which the rate or rates were  
6 submitted shall have thirty (30) days from the date of submission to:

7 1. Approve or fail to act on the proposed rate or rates, in which case the  
8 proposed rate or rates may be implemented by the special purpose  
9 governmental entity after all other statutory requirements for levying  
10 the rate or rates are met; or

11 2. Disapprove the proposed rate or rates by a majority vote of the  
12 governing body, in which case the following shall apply:

13 a. If the special purpose governmental entity levied an ad valorem  
14 tax during the current year, the special purpose governmental  
15 entity may levy a rate or rates for the upcoming year that do not  
16 exceed the compensating tax rate; and

17 b. If the special purpose governmental entity is proposing an initial  
18 levy, the levy shall not be imposed, and the special purpose  
19 governmental entity shall wait at least one (1) year before  
20 proposing another ad valorem tax levy.

21 (c) Upon request of a special purpose governmental entity, the DLG shall  
22 calculate rates on behalf of the special purpose governmental entity.

23 (4) (a) Notwithstanding any other provision of the Kentucky Revised Statutes, any  
24 special purpose governmental entity, other than an air board established or  
25 operating under KRS 183.132 to 183.160, proposing the imposition of a new  
26 fee, or a fee which is expected to produce increased revenues as compared  
27 to revenues generated during the prior fiscal year, and that is not subject to

1           an approval process for the proposed fee under another provision of the  
2           Kentucky Revised Statutes or administrative regulations promulgated  
3           pursuant thereto, shall submit the proposed fee to the establishing entity. If  
4           the establishing entity includes more than one (1) city or county, or if there  
5           is no establishing entity, the fee shall be submitted to the governing body of  
6           the city or county in which the largest number of citizens served by the  
7           special purpose governmental entity reside, except as provided in subsection  
8           (5) of this section. If the special purpose governmental entity serves only the  
9           residents of a city, the notice shall be provided to the governing body of that  
10           city. The proposed fee shall be submitted to the relevant city or county no  
11           later than forty-five (45) days prior to the scheduled implementation of the  
12           fee.

13           (b) The governing body of the city or county shall have thirty (30) days from the  
14           date of submission to:

15           1. Approve or fail to act on the proposed fee, in which case the proposed  
16           fee may be implemented by the special purpose governmental entity  
17           after all other statutory requirements for levying the fee are met; or

18           2. Disapprove the proposed fee by a majority vote of the governing body,  
19           in which case the following shall apply:

20           a. If a proposed increase of an existing fee is disapproved, any fee  
21           then in existence shall remain unchanged, and the special  
22           purpose governmental entity shall not seek to increase the fee  
23           again for at least one (1) year from the date of the submission of  
24           the disapproved fee increase; and

25           b. If a proposed initial fee is disapproved, the special purpose  
26           governmental entity shall not seek to impose the fee again for at  
27           least one (1) year from the date of the submission of the

1 disapproved initial fee.

2 (5) The requirements established by subsection (4) of this section shall not apply to  
3 the following:

4 (a) Rental fees;

5 (b) Fees established by contractual arrangement;

6 (c) Admission fees;

7 (d) Fees or charges to recover costs incurred by a special purpose governmental  
8 entity for the connection, restoration, relocation, or discontinuation of any  
9 service requested by any person;

10 (e) Any penalty, interest, sanction, or other fee or charge imposed by a special  
11 purpose governmental entity for a failure to pay a charge or fee, or for the  
12 violation or breach of or failure to pay or perform as agreed pursuant to a  
13 contractual agreement or as reflected in a published schedule;

14 (f) Amounts charged to customers or contractual partners for nonessential  
15 services provided on a voluntary basis;

16 (g) Fees or charges authorized under federal law that pursuant to federal law  
17 may not be regulated by the Commonwealth or local governments within  
18 the Commonwealth;

19 (h) Purchased water or sewage treatment adjustments, as authorized by KRS  
20 278.015, made by a special purpose governmental entity as a direct result of  
21 a rate increase by its wholesale water supplier or wholesale sewage  
22 treatment provider;

23 (i) Any new fee or fee increase for which a special purpose governmental entity  
24 must obtain prior approval from the Public Service Commission pursuant to  
25 KRS Chapter 278;

26 (j) Other charges or fees imposed by a special purpose governmental entity for  
27 the provision of any service that is also available on the open market; or

1        (k) Fees or charges imposed by municipal utilities for the provision of power,  
 2        water, wastewater, natural gas, or telecommunications services, unless  
 3        submission is otherwise required by statute or an ordinance adopted by the  
 4        establishing entity.

5        (6) (a) Subsections (3) and (4) of this section shall not be interpreted as  
 6        transferring any tax-levying or fee-levying authority granted to a special  
 7        purpose governmental entity under any other provision of the Kentucky  
 8        Revised Statutes to cities and counties charged with reviewing tax and fee  
 9        increases under this section.

10       (b) This section shall not be interpreted to grant tax-levying or fee-levying  
 11       authority on behalf of special purpose governmental entities to any city or  
 12       county reviewing tax rates or fees proposed by a special purpose  
 13       governmental entity and subject to review under this section.

14       (7) This section shall apply independently of and in addition to any other statutory  
 15       requirements and provisions relating to the levy of ad valorem taxes or fees by  
 16       special purpose governmental entities other than air boards established or  
 17       operating under KRS 183.132 to 183.160, including statutory rate limits, public  
 18       hearing requirements, and recall provisions, and shall not be interpreted to  
 19       circumvent, supplant, or otherwise replace those requirements and provisions.

20       (8) The provisions of this section shall not be interpreted as limiting the ability of any  
 21       city, county, or other establishing entity to impose reporting or submission  
 22       requirements that are more stringent than those established in this section.

23       ➔Section 2. KRS 132.023 is amended to read as follows:

24       (1) No special purpose governmental entity shall levy a tax rate which exceeds the  
 25       compensating tax rate until the taxing district has complied with the provisions of  
 26       Section 1 of this Act and subsection (2) of this section.

27       (2) (a) A special purpose governmental entity proposing to levy a tax rate which

1 exceeds the compensating tax rate shall *submit the proposed rate as required*  
2 *by Section 1 of this Act and shall* hold a public hearing to hear comments  
3 from the public regarding the proposed tax rate. The hearing shall be held in  
4 the same location where the governing body of the city or county where the  
5 largest number of citizens served by the special purpose governmental entity  
6 reside meets, and shall be held immediately before a regularly scheduled  
7 meeting of that governing body.

8 (b) The special purpose governmental entity shall advertise the hearing by causing  
9 to be published at least twice in two (2) consecutive weeks, in the newspaper  
10 of largest circulation in the county, a display type advertisement of not less  
11 than twelve (12) column inches, the following:

- 12 1. The tax rate levied in the preceding year, and the revenue produced by  
13 that rate;
- 14 2. The tax rate proposed for the current year and the revenue expected to be  
15 produced by that rate;
- 16 3. The compensating tax rate and the revenue expected from it;
- 17 4. The revenue expected from new property and personal property;
- 18 5. The general areas to which revenue in excess of the revenue produced in  
19 the preceding year is to be allocated;
- 20 6. A time and place for the public hearing which shall be held not less than  
21 seven (7) days, nor more than ten (10) days, after the day that the second  
22 advertisement is published;
- 23 7. The purpose of the hearing; and
- 24 8. A statement to the effect that the General Assembly has required  
25 publication of the advertisement and the information contained therein.

26 (c) In lieu of the two (2) published notices, a single notice containing the required  
27 information may be sent by first-class mail to each person owning real

1 property in the special purpose governmental entity, addressed to the property  
2 owner at his residence or principal place of business as shown on the current  
3 year property tax roll.

4 (d) The hearing shall be open to the public. All persons desiring to be heard shall  
5 be given an opportunity to present oral testimony. The special purpose  
6 governmental entity may set reasonable time limits for testimony.

7 (3) (a) That portion of a tax rate levied by an action of a special purpose  
8 governmental entity which will produce revenue from real property, exclusive  
9 of revenue from new property, more than four percent (4%) over the amount  
10 of revenue produced by the compensating tax rate shall be subject to a recall  
11 vote or reconsideration by the special purpose governmental entity, as  
12 provided for in KRS 132.017, and shall be advertised as provided in paragraph  
13 (b) of this subsection.

14 (b) The special purpose governmental entity shall, within seven (7) days  
15 following adoption of an ordinance, order, resolution, or motion to levy a tax  
16 rate which will produce revenue from real property, exclusive of revenue from  
17 new property, more than four percent (4%) over the amount of revenue  
18 produced by the compensating tax rate, cause to be published, in the  
19 newspaper of largest circulation in the county, a display type advertisement of  
20 not less than twelve (12) column inches the following:

- 21 1. The fact that the taxing district has adopted a rate;
- 22 2. The fact that the part of the rate which will produce revenue from real  
23 property, exclusive of new property, in excess of four percent (4%) over  
24 the amount of revenue produced by the compensating tax rate is subject  
25 to recall; and
- 26 3. The name, address, and telephone number of the county clerk of the  
27 county in which the special purpose governmental entity is located, with

1 a notation to the effect that that official can provide the necessary  
2 information about the petition required to initiate recall of the tax rate.

3 ➔Section 3. KRS 132.025 is amended to read as follows:

4 (1) In the event that the tax rate levied by an action of a taxing district, other than the  
5 state, counties, school districts, cities, and urban-county governments, for 1979-80,  
6 1980-81, or 1981-82 produced a percentage increase in revenue from personal  
7 property less than the percentage increase in revenue from real property for the  
8 respective year, the taxing district, other than the state, counties, school districts,  
9 cities, and urban-county governments, may levy a tax rate applicable to personal  
10 property for 1982-83 only, which will produce the same cumulative percentage  
11 increase in revenue from personal property as was produced from real property in  
12 1979-80, 1980-81 and 1981-82. Such a tax rate may be in addition to the tax rate  
13 levied under the provisions of KRS 132.024.

14 (2) The tax rate levied under the provision of KRS 132.024 and subsection (1) of this  
15 section shall not exceed the tax rate applicable to personal property levied by the  
16 respective taxing district, other than the state, counties, school districts, cities, and  
17 urban-county governments, in 1981-82.

18 (3) The tax rate applicable to personal property levied by a taxing district, other than  
19 the state, counties, school districts, cities, and urban-county governments shall not  
20 be subject to the public hearing provisions of KRS 132.023~~(2)~~~~(3)~~ and to the recall  
21 provisions of KRS 132.023~~(3)~~~~(4)~~.

22 ➔Section 4. The following KRS section is repealed:

23 65A.100 Fees and ad valorem taxes levied by special purpose governmental entities --  
24 Reporting to governing body of city or county -- Reporting exceptions.

25 ➔Section 5. This Act takes effect January 1, 2020.