

KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE REVIEW ITEM

Topic: Facilities Update – Impact of HB 678 (2022)

Date: April 2022

Held In: Full Board

Curriculum, Instruction and Assessment Operations

SUMMARY OF PRESENTATION:

The Office of Finance and Operations continues to work through amendments to 702 KAR 4:180 Implementation guidelines – Kentucky school facilities manual. The office is meticulously reviewing and revising the “*Kentucky School Facilities Planning Manual*” which has not been updated since 2008. The intention is to circulate a draft review for feedback and input from districts and stakeholders. However, the work of the office has been impacted by legislation passed during the 2022 legislative session. Specifically, on March 30, 2022, the General Assembly passed HB 678. This bill will dramatically alter how the Kentucky Department of Education (KDE) administers the facilities process for at least the next two years.

HB 678 provides, until June 30, 2024, a school district may elect to “provide for and commence the funding financing, design, construction, renovation, or modification of the district’s facilities in accordance with the provisions and restrictions established in statute and administrative regulation notwithstanding the requirements for prior approval for the district’s plans and specifications from the chief state school officer...” Such school districts are no longer required to obtain prior approval of plans and specifications for building projects. Districts may commence projects but are still required to submit BG-1 application forms to the department for recordkeeping and data collection purposes. Districts may also use district capital outlay funds and enter in leasing/bonding arrangements per KRS 160.160(3) and (4) without KDE prior approval. Further, districts may use the estimates of architects and engineers that prepared plans and specifications to estimate the costs of projects for financing purposes without having to seek competitive bids to establish such costs. Prior approval is not waived for any project funded with federal funds that requires approval by the State Educational Agency (e.g., ESSER funds).

Per HB 678, districts must continue to submit district facility plans as well as requests for property acquisition and disposal to KDE. Upon the submission of a complete DFP or request to purchase or sell property, the department has thirty (30) days to approve or deny a request. Districts may appeal any denial to the Kentucky Board of Education (KBE). Additionally, districts may list extracurricular (athletic) facilities in any priority on a DFP. Listing extracurricular facilities in higher priorities allows for the use of restricted funds. Finally, KDE is required to continue to provide assistance and guidance to districts upon request.

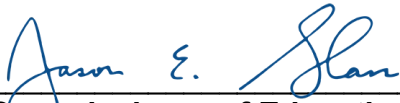
Local school districts may elect to operate under the provisions of HB 678 through the adoption of a board resolution. The stated need for the legislation is the financial loss to school districts due to approval delays and rising construction costs. The bill contains an emergency clause and is effective on becoming law.

By June 30, 2023, KDE is required to conduct a review of all “administrative regulations, incorporated materials, design manuals, and other guidance the department provides to districts

concerning the construction, renovation, and modification of school facilities.” The department is to identify inefficiencies in the existing review and approval process and needed updates to administrative regulations and materials due to changing trends in facilities design, the construction industry, and the economy. KDE is also required to consult with the Department of Housing Buildings and Construction (HBC) to discuss whether elements of KDE’s administrative regulations may be incorporated into HBC’s building code for enforcement purposes. KDE is required to provide a report on the results of the review to the Interim Joint Committee on Education and the Interim Joint Committee on Appropriations and Revenue by September 1, 2023.

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Commissioner of Education

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