

KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE

Topic: Amendment of 702 KAR 4:090 Disposal of Surplus Real Property by Sale, Easement or Lease

Date: August 2024

Action Requested: Review Action/Consent Action/Discussion

Held In: Full Board State Schools United We Learn

SUMMARY OF ISSUE BEFORE THE BOARD:

To take action on the proposed amendments to 702 KAR 4:090 Disposal of Surplus Real Property by Sale, Easement or Lease.

COMMISSIONER'S RECOMMENDATION:

The Commissioner recommends the Kentucky Board of Education (KBE) approve the proposed amendment of 702 KAR 4:090 Disposal of Surplus Real Property by Sale, Easement or Lease.

APPLICABLE STATUTE OR REGULATION:

KRS 156.160 and 156.070

BACKGROUND:

Existing Policy:

KRS 156.160 requires the KBE to promulgate administrative regulations relating to the disposal of real property owned by local boards of education. 702 KAR 4:090 sets forth the requirements for the disposal of real property. This regulation is administered through the Office of Finance and Operations, Division of District Support through the District Facilities Branch.

Summary of Issue:

HB 678 passed during the 2022 Regular Session of the General Assembly directed the Kentucky Department of Education (KDE) to conduct a review of existing facility related administrative regulations "develop a plan to reduce delays and increase efficiency through policy changes." Subsequent to that review, KDE has updated the administrative regulation to create a more efficient process. The proposed amendments to 702 KAR 4:090 Disposal of Surplus Real Property by Sale, Easement or Lease are as follows:

The format, content and language of the regulation is nearly replaced to provide for a streamlined and clear property disposal approval process.

1. Update to reflect the impact of federal dollars impacting real property disposal considerations.

2. A definitions section is added to address common terms as they relate to the regulation.
3. Disposal processing and submittal requirements are reorganized to provide a clearer path from beginning to end utilizing the current BG-1 process in the Facilities, Planning and Construction (FACPAC) system.
4. The statutory amendment to KRS 160.160 (8) is incorporated for districts selling property to other government or quasi-governmental entities with direction on how to submit required information for record-keeping and data collection.
5. Two new sections provide for a KDE waiver process and an opportunity to appeal to the KBE should KDE deny a request.

Budget Impact:

There is no budget impact to KDE.

GROUPS CONSULTED AND BRIEF SUMMARY OF RESPONSES:

Since 2020 KDE has worked with a committee of superintendents, facilities directors and design professionals with the goal of creating an improved facility regulatory process. HB 678 (22 RS) required the department to undertake a review of the facility regulatory process. This review included consultation with Local Superintendents Advisory Council (LSAC), Kentucky School Plant Managers Association (KSPMA), Committee on Architecture in Education (CAE), and others. Information and feedback from the original 2020 committee as well as from the HB 678 review are incorporated into the proposed amendments to the administrative regulation. LSAC will review the proposed amendments at its July 2024 meeting.

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 Commissioner of Education

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