

1 FINANCE AND ADMINISTRATION CABINET

2 School Facilities Construction Commission

3 (Amendment)

4 750 KAR 1:030. Emergency and Targeted Investment Fund

5 RELATES TO: 157.618

6 STATUTORY AUTHORITY: KRS 157.617, 157.618, 157.622

7 NECESSITY, FUNCTION, AND CONFORMITY: [~~KRS 157.617(1) authorizes the School~~
8 ~~Facilities Construction Commission to promulgate administrative regulations for the orderly~~
9 ~~conduct of its affairs, including assisting local school districts to meet the school construction~~
10 ~~needs of the state. KRS 157.622(4) requires the commission to promulgate administrative~~
11 ~~regulations governing allocations of state funds to eligible school districts. KRS 157.618(5)~~
12 ~~requires the commission to promulgate administrative regulations to establish the process to apply~~
13 ~~for and receive funds from the Emergency and Targeted Investment Fund.] This administrative
14 regulation establishes the application procedure and requirements for the commission to determine
15 eligibility for funding from the emergency and targeted investment fund due to an unforeseen
16 emergency or the expectation that the facility will be rendered structurally uninhabitable. This
17 amendment is filed to comply with statutory changes made as a result of Acts Chapter 138, section
18 4, effective April 27, 2016.~~

19 Section 1. Definitions. (1) "Applicant" means any local public school district that has submitted
20 an application to the authority for an offer of assistance from the emergency and targeted
21 investment fund and meets the definition of a "common school" under KRS 158.030.

1 (2) "Application" means the information submitted by an applicant to obtain an offer of
2 assistance, including the need for a specific project and financial information necessary to
3 determine eligibility for assistance from the emergency and targeted investment fund.

4 (3) "Available local revenues" is defined by KRS 157.615(1).

5 (4) "Commission" means the School Facilities Construction Commission.

6 (5) "Core academic facility" means a public elementary or secondary educational institution
7 that is under the administrative control of a principal and is not a program or part of another school,
8 except for district-operated schools that are exclusively:

9 (a) Vocational-technical, special education, or preschool programs;

10 (b) Instructional programs operated in institutions or schools outside of the district; or

11 (c) Alternative schools designed to provide services to at-risk populations with unique needs.

12 (6) "District facility plan" means the plan developed pursuant to the survey specified by KRS
13 157.420 and by 702 KAR Chapters 3 and 4.

14 (7) "Offer of assistance" means ~~[a financial commitment from the commission to pay all or a~~
15 ~~portion of the debt service on bonds issued by or on behalf of the applicant or]~~ a direct loan or
16 grant made to the applicant from the emergency and targeted investment fund.

17 Section 2. Eligible Applicants. ~~[(4)-]~~A local public school district may submit a cover letter
18 and the information requested in Section 3(2) of this administrative regulation for an offer of
19 assistance from the emergency and targeted investment fund if any of the district's core academic
20 facilities meet the criteria set forth in ~~[fall within]~~ KRS 157.618(3).

21 ~~[(2) Local public school districts that submit an application under KRS 157.618(3)(c) or (d)~~
22 ~~shall have levied a ten (10) cent equivalent tax for the purposes of funding major construction and~~
23 ~~renovation projects and the project shall be identified as a priority one (1) or priority two (2) in the~~

1 ~~district facility plan.]~~

2 Section 3. Submission Requirements. (1) The commission shall accept applications for offers
3 of assistance from the emergency and targeted investment fund from local public school districts
4 throughout the commission's fiscal year.

5 (2) Applications for offers of assistance from the fund shall include:

6 (a) Information about the school facility to which the offer of assistance would be applied and
7 an explanation of any events that contributed to the facility's physical condition;

8 (b) Certification from local officials, engineers, or the commissioner of education that the
9 facility meets the criteria in KRS 157.618(3);

10 (c) A proposed timeline for bidding and awarding contracts, planning and design, construction,
11 and equipping the facility;

12 (d) A copy of a motion or resolution from the local board of education approving the request
13 for an offer of assistance from the fund;

14 (e) An estimate from a financial advisor hired by the applicant of the amount of funding
15 necessary to bring the facility to the Kentucky Department of Education's current standards; and

16 (f) Certification from the applicant that the project shall adhere to the Kentucky Department of
17 Education's best practice guidelines.

18 (3)(a) Offers of assistance shall be limited to ~~[the lesser of]~~ the total cost of the project minus
19 the applicant's available local revenues.[:]

20 ~~[1.The difference between the total cost of the project and the applicant's available local~~
21 ~~revenues; or~~

22 ~~2. A dollar amount limit determined by the commission at the commission's first regular~~
23 ~~meeting held after the beginning of the commission's fiscal year that shall be applied to all projects~~

1 ~~during that fiscal year.]~~

2 (b) In addition to the provisions in Section 1(3) of this administrative regulation, available local
3 revenues shall also include any unexpected funds in accounts for projects that have been completed
4 when an application is submitted to receive an offer of assistance from the emergency and targeted
5 investment fund.

6 (4) All information submitted as application for offers of assistance from the fund shall be
7 submitted to the School Facilities Construction Commission at 229 West Main Street, Suite 102,
8 Frankfort, Kentucky 40601. The supporting documentation shall be accompanied with a letter
9 from the district's superintendent to the commission requesting assistance and summarizing the
10 district's facility needs.

11 Section 4. Project Execution. (1) Applicants that receive offers of assistance from the
12 emergency and targeted investment fund shall follow the process established in 750 KAR 1:010,
13 Sections 6, 7(1), (3), and (4), 8, and 10, concerning allowable expenditure of funds, bond issuance
14 procedures, and refinancing savings. 750 KAR 1:010, Section 7(2), shall not apply to this
15 administrative regulation. Emergency and Targeted Investment funds available for a project shall
16 be expended for the project that is identified in the application and any balance of funds remaining
17 after completion of the project shall be applied toward the associated bonds. If the commission's
18 offer of assistance takes the form of a cash grant or loan, any unexpended funds shall be returned
19 to the emergency and targeted investment fund.

20 (2) Applicants who wish to utilize alternative bond structures shall contact the School Facilities
21 Construction Commission for approval. The executive director shall approve or disapprove the
22 alternative bond structure based on the proposed structure's financial and economic viability.

1 (3) If a school district receives an offer of assistance from the emergency and targeted
2 investment fund and subsequently, as a result of litigation or insurance, receives funds for the
3 original facility, the district shall reimburse the emergency and targeted investment fund pursuant
4 to KRS 157.618(4).

750 KAR 1:030

APPROVED:

Chelsey Bizzle, Executive Director
School Facilities Construction Commission

Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on March 23, 2017 from 1:00pm to 3:00pm in Room 318, Capital Annex Building, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through March 31, 2017. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Corey Henderson, Administrative Assistant, School Facilities Construction Commission, 229 W Main Street, Suite 102, Frankfort, Kentucky, 40601, (502) 564-5582 (telephone), Corey.Henderson@ky.gov (email), (888) 979-6152 (fax).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation Number: 750 KAR 1:030

Contact Person: Corey Henderson

Phone Number: (502)564-5582

Email: Corey.Henderson@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation prescribes the application process for receiving an offer of assistance from the emergency and targeted investment fund in compliance with amendments made to KRS 157.618 under HB 80 passed in the 2016 budget session.

(b) The necessity of this administrative regulation: KRS 157.618(5) requires the School Facilities Construction Commission to promulgate regulations for the emergency and targeted investment fund. Furthermore, the School Facilities Construction Commission must create an applicable regulation in regards to amendments made to KRS 157.618 under HB 80 passed in the 2016 budget session.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 157.617 (1) and 157.622(4) empower the School Facilities Construction Commission to promulgate administrative regulations governing the operation of its programs. KRS 157.618(5) specifically directs the commission to promulgate regulations establish the process to apply for and receive funds from the emergency and targeted investment fund.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation prescribes the application process for applying and receiving and offer of assistance from the emergency and targeted investment fund in compliance with amendments made to KRS 157.618 under HB 80 passed in 2016.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment prescribes a revised application process for applying and receiving an offer of assistance.

(b) The necessity of the amendment to this administrative regulation: An amendment is necessary to comply with revisions made to KRS 157.618 under HB 80 passed in 2016.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment establishes compliant application procedures and requirements for the commission to determine eligibility for funding from the emergency and targeted investment fund. Furthermore, the amendment conforms to the definition of “offer of assistance” and “eligible applicants” put forth by the statute.

(d) How the amendment will assist in the effective administration of the statutes: By establishing applicable definitions and procedures, the amendment will determine appropriate eligibility for funding from the emergency and targeted investment fund.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Local public school districts with facilities that have been impacted by a catastrophic event.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This regulation outlines an application process and process for funding a project.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Damaged or hazardous school facilities will be replaced.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: None

(b) On a continuing basis: None

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: These activities are incorporated into the commission's existing operating budget.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No additional funding or fees are anticipated at this time.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased by this regulation.

(9) TIERING: Is tiering applied? Tiering was not applied in this regulation because all applicants for assistance will be considered equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 750 KAR 1:030

Contact Person: Corey Henderson

Phone Number: (502)564-5582

Email: Corey.Henderson@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Local public school districts

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 157.617(1); 157.622 (4); KRS 157.618(5).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. School districts that are applying for funding will be impacted, not school districts broadly.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? N/A

(d) How much will it cost to administer this program for subsequent years? N/A

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: