

CITY-COUNTY METROPOLITAN SEWER, SEWER CONSTRUCTION, AND SANITATION DISTRICTS

A GUIDE FROM KLC MUNICIPAL LAW

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Kentucky League of Cities



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In order to play any game, you must first learn the rules. The same holds true for the law surrounding city-county metropolitan sewer, sewer construction, and sanitation districts. It is impossible to carry out the duties of city-county metropolitan sewer, sewer construction, and sanitation districts unless you familiarize yourself with the applicable state statutes, as well as your local ordinances, that govern.

Statutes are not contained in some magical spell book. There is no forbidden wisdom in a statutory code book. You do not need a law school education to understand their meaning. We wanted to remove some of the mystique from the law by compiling this simple pdf document. It contains the entire portion of Kentucky Revised Statutes which pertain to city-county metropolitan sewer, sewer construction, and sanitation districts.

Feel free to use this guide in any way that you deem fit. The reason we wanted to present this as a pdf though is because a pdf does have just a little bit of magic, truth be told. A pdf is word searchable. If you have the pdf on a laptop during a meeting and an issue comes up - you can plug the words in and hopefully the relevant portion of the law pertaining to city-county metropolitan sewer, sewer construction, and sanitation districts will pop up. Failing that, you can always call the KLC Municipal Law Department at 800.876.4552.

The KLC Municipal Law Team

METROPOLITAN SEWER DISTRICTS

76.005 Definitions

As used in KRS 76.010 to 76.295 unless the context otherwise requires:

- (1) “District” means a metropolitan sewer district authorized by KRS 76.010 to 76.210.
- (2) “Board” means the board described in KRS 76.030.
- (3) “District area,” “within the district,” “corporate limits of the district” and similar terms mean that area of a county containing a city of the first class which area was on April 1, 1964, either inside the city of the first class or served by sanitary or combined sanitary and storm water sewers which were under the immediate control and custody of the district, that area of such a county which is added to the district pursuant to KRS 76.170, and that area of such a county which may be annexed to the city of the first class except that no construction subdistrict shall be construed to be within the district area.
- (4) “Construction subdistrict bonds and obligations” and like phrases mean any obligation whatsoever that has been incurred by the district because of some function or activity of a construction subdistrict. Such debts are not obligations of the district, and such debts may be paid only from moneys received by the district on account of the construction subdistrict, or from the funds, if any, in the construction subdistrict reserve fund.
- (5) “Construction subdistrict facilities” are all sewerage facilities within a construction subdistrict, and all sewerage facilities in a county containing a district outside the district area which:
 - (a) Are not a part of a sewer construction district organized pursuant to KRS 76.300 to 76.420 or a sanitation district organized pursuant to KRS 220.010 to 220.540 or a sewer system of a municipal corporation or a sewer system of a water district organized pursuant to KRS 74.010 to 74.415; and
 - (b) Join together two (2) or more construction subdistricts or lead from a construction subdistrict to the district area or lead from a construction subdistrict to a disposal plant or a treatment plant outside the construction subdistrict and outside the district area.
- (6) “District facilities” are all facilities of the district within the district area.

76.007 Compliance with KRS 65A.010 to 65A.090

The board of the district shall comply with the provisions of KRS 65A.010 to 65A.090 for both the district and any subdistrict established pursuant to KRS 76.241 to 76.273.

76.010 Joint metropolitan sewer district authorized in cities with population of 20,000 or more and counties containing such cities; corporate powers

In the interest of the public health and for the purpose of providing adequate sewer and drainage facilities in and around each city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census and in each county containing a city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census, there may be created and established a joint metropolitan sewer district under the provisions of KRS 76.010 to 76.210, having the powers, duties and functions as herein prescribed, to be known by and under the name of (Name of city) and

(Name of county) metropolitan sewer district, which district under that name shall be a public body corporate, and political subdivision, with power to adopt, use, and alter at its pleasure a corporate seal, sue and be sued, contract and be contracted with, and in other ways to act as a natural person, within the purview of KRS 76.010 to 76.210.

76.020 Ordinance for creation of district

Whenever by ordinance passed by the legislative body of any such city and approved by the mayor thereof, it is declared for the best interests of such city and the inhabitants thereof, that such district be created under the provisions of KRS 76.010 to 76.210, the clerk of the legislative body of such city shall file a certified copy of such ordinance with the county judge/executive of the county wherein such city is located.

76.030 Board of district; membership, appointment, qualifications, term, vacancies, removal, compensation; effect of compact; membership of board upon establishment of consolidated local government

- (1) Except in counties containing a consolidated local government, the business, activities, and affairs of such district shall be managed, controlled, and conducted by a board composed of seven (7) members, four (4) of whom shall be appointed by the mayor of such city subject to the approval of the city legislative body, and three (3) of whom shall be appointed by the county judge/executive of such county subject to the approval of the fiscal court, and which seven (7) members thus appointed shall constitute the board of such district. Not more than four (4) members of a seven (7) member board nor more than five (5) members of an eight (8) member board shall be affiliated with the same political party. After March 19, 1977, members shall be so selected and appointed so that no more than one (1) member resides in any one (1) state senatorial district. In a county containing a city of the first class, the county judge/executive, with approval of the fiscal court, shall appoint one (1) additional member to the board of such district who may be a resident of any state senatorial district in the county.
- (2) Each such member shall be at least twenty-five (25) years of age; each appointed by the mayor shall be a resident of such city and wherein he shall have actually resided continuously for at least three (3) years next prior to appointment; each appointed by the county judge/executive shall be a resident of such county and wherein he shall have actually resided continuously for at least three (3) years next prior to appointment. No officer or employee of such city or county, whether holding a paid or unpaid position, shall be eligible for appointment as a member of such board.
- (3) The term of each of such members shall be four (4) years, ending on July first. A member is eligible to succeed himself and shall continue in office until his successor has been appointed and qualified. Vacancies in the membership shall be filled for the unexpired portion of the term by the mayor or the county judge/executive as the case may be, subject to the same approval.
- (4) Any member of the board appointed by the mayor may be removed by the mayor, for cause, after hearing by the mayor, and after at least ten (10) days' notice in writing shall have been given to the member, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the mayor shall be final and removal results in vacancy in such office. Any member of the board appointed by the county judge/executive may be removed by the county judge/executive, for cause, after hearing by the county judge/executive, and after at least ten (10) days' notice in writing shall have been given to the member, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the county judge/executive shall be final and removal results in vacancy in such office.

- (5) The members of the board shall be paid seventy-five dollars (\$75) for each meeting of the board attended by such member, and fifty dollars (\$50) for attendance at any meeting of a committee which has been authorized or duly appointed by the board. But in no instance shall any member of said board be paid for more than one (1) meeting per day, nor more than one thousand eight hundred dollars (\$1,800) during any fiscal year of the board, nor for more than twenty-four (24) board meetings and twenty-eight (28) committee meetings held during any fiscal year of said board.
- (6) Notwithstanding subsection (3) of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the terms of the members of the board shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, the mayor shall adjust the terms of the sitting members appointed by the mayor so that the terms of two (2) members expire in one (1) year, the term of one (1) member expires in two (2) years, and the term of one (1) member expires in three (3) years; the county judge/executive with the approval of the fiscal court shall adjust the terms of the sitting members appointed by the county judge/executive so that the term of one (1) member expires in one (1) year, the term of one (1) member expires in two (2) years, and the term of one (1) member expires in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years.
- (7) Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing that city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, all members of the board shall be appointed by the mayor of the consolidated local government pursuant to the provisions of KRS 67C.139 for a term of three (3) years. Incumbent members upon the establishment of the consolidated local government shall continue to serve as members of the board for the time remaining on their current term of appointment.

76.040 Fiscal year

The fiscal year of the district shall begin on July 1 of each year and end on June 30 next following.

76.050 Meetings of board; quorum

- (1) Regular meetings of the board shall be held at least once in each calendar month, the time and place of which shall be fixed by the board.
- (2) A majority of the members of the board shall constitute a quorum, and the affirmative vote of at least three (3) members of the board shall be necessary for the adoption of any motion, measure, or resolution.

76.060 Officers and employees; legal services; effect of compact

- (1) The board shall, in July of each year, elect from its members a chairman and a vice chairman, who shall be of different political party affiliation. It shall employ a secretary-treasurer and a chief engineer, neither of whom is a member of the board. The secretary-treasurer and the chief engineer may be removed by the board for cause, after hearing by it and after at least ten (10) days' notice in writing has been given to the secretary-treasurer or chief engineer, as the case may be, which notice shall embrace the charges preferred against him or her. At the hearing he or she may be represented by counsel. The finding of the board is final. The secretary-treasurer and the chief engineer shall each devote his or her entire time and attention exclusively to the services of the board. The board may employ, and remove at pleasure, professional and technical advisers, experts, and other employees, skilled or unskilled, as it deems requisite for the performance of its duties.

- (2) The board shall require the secretary-treasurer and the chief engineer each to execute a bond and may exact from such of its other officers and employees bonds as it deems expedient. All bonds shall be payable to the district in the sums as the board may fix, with approved corporate surety, and premiums therefor shall be paid by the district. The bonds shall obligate the makers thereof to faithfully perform the duties of their respective offices and positions and to fully account for and pay over all money, property, or other thing of value of the district, which may come to their hands, respectively. The board shall fix the salaries and compensation of the officers and employees it engages, which salaries and compensation, however, shall be in line with that paid by the city and county for similar services.
- (3) Notwithstanding other provisions of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the executive director, secretary-treasurer, and chief engineer shall be appointed by and serve at the joint pleasure of the mayor, and the county judge/executive with the approval of the fiscal court pursuant to KRS 67.040. Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing such city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the executive director, secretary-treasurer, and chief engineer shall be appointed by and serve at the pleasure of the mayor.

76.070 District to take over existing sewer facilities; duration of control and functions

- (1) When the district created under KRS 76.010 to 76.210 has organized, thereupon and by virtue of KRS 76.010 to 76.210, the existing sewer and drainage system and facilities of the city forming a district pursuant to KRS 76.010, together with all contracts, books, maps, plans, papers and records, of whatever description pertaining to or relating to the design, construction, maintenance, operation, and affairs of the existing sewer and drainage system, shall be assigned, transferred, and dedicated to the use of and be in possession, and under the jurisdiction, control, and supervision, of the district under KRS 76.010 to 76.210 created, and the district is empowered to take possession thereof for its use and purposes. The district created under KRS 76.010 to 76.210 shall thereafter have complete jurisdiction, control, possession, and supervision, of the existing sewer and drainage system, and of all of the facilities of the city for the disposal of sewage and storm water, and shall continue to exercise such power so long thereafter as any bonds or liabilities of the district remain unpaid or have not been otherwise discharged. When all of the bonds issued by the district and all its obligations have been paid in full or have been otherwise discharged, the district shall nevertheless continue to function as contemplated by KRS 76.010 to 76.210 until dissolved and disposition of its property and assets provided for.
- (2) The rights and powers given in this section shall apply in the whole of the district area.
- (3) The board shall make and spread upon its records adequate descriptions, by map or otherwise, of the district area.

76.080 General powers of district

The district created under the provisions of KRS 76.010 to 76.210 is empowered:

- (1) To have jurisdiction, control, possession, and supervision of the existing sewer and drainage system of the city forming a district pursuant to KRS 76.010; to maintain, operate, reconstruct, and improve the same as a comprehensive sewer and drainage system; to make additions, betterments, and extensions thereto within the district area; and to have all the rights, privileges, and jurisdiction necessary or proper for carrying such powers into execution. No enumeration of powers in KRS 76.010 to 76.210 shall operate to restrict the meaning of this general grant of power or to exclude other powers comprehended within this general grant.

- (2) To prepare or cause to be prepared and to be thereafter revised and adopted, plans, designs, and estimates of costs, of a system of trunk, intercepting, connecting, lateral, and outlet sewers, storm water drains, pumping and ventilating stations, disposal and treatment plants and works, and all other appliances and structures which in the judgment of the board will provide an effective and advantageous means for relieving the district area from inadequate sanitary and storm water drainage and from inadequate sanitary disposal and treatment of the sewage thereof, or such sections or parts of such system of the district area as the board may from time to time deem proper or convenient to construct, consistent with the plans and purposes of KRS 76.010 to 76.210, and may take all steps the board deems proper and necessary to effect the purposes of KRS 76.010 to 76.210.
- (3) To construct any additions, betterments and extensions to the facilities of the district, within or without the district area, and to construct any construction subdistrict facilities or additions, betterments and extensions thereto, within or without the district area, by contract or under, through, or by means of its own officers, agents and employees. No construction or extensions shall be started within the city forming a district pursuant to KRS 76.010 until, firstly, the city's director of works, and secondly, its board of aldermen have approved the plans. No construction or extensions shall be started in any city with a population greater than three thousand (3,000) but less than one hundred thousand (100,000) based upon the most recent federal decennial census until the governing authorities of such city or cities have approved the plans. No construction or extensions shall be started in any other part of the county until the plans have been approved, firstly, by the county engineer and, secondly, by the fiscal court.
- (4) To establish, construct, operate, and maintain, as a part of the sewer and drainage system of the district, sewage treatment and disposal plants and systems and all the appurtenances and appliances thereunto belonging. The sewage treatment and disposal plants may be located in the city, or beyond the limits of the city in the county in which the city is located, as the board deems expedient.
- (5) To acquire and hold the personal property the board deems necessary and proper for carrying out the corporate purposes of the district and to dispose of personal property when the district has no further need therefor.
- (6) To acquire by purchase, gift, lease, or by condemnation, real property or any interest, right, easement, or privilege therein, as the board determines necessary, proper and convenient for the corporate purposes of the district, and to use the same so long as its corporate existence continues, and same is necessary or useful for the corporate purposes of the district. Condemnation proceedings may be instituted in the name of the district pursuant to a resolution of the board declaring the necessity for the taking, and the method of condemnation shall be the same as provided in the Eminent Domain Act of Kentucky. When the board by resolution declares that any real property which it has acquired, or any interest therein, is no longer necessary or useful for the corporate purposes of the district, the real property and interest therein may be disposed of.
- (7) To make bylaws and agreements for the management and regulation of its affairs and for the regulation of the use of property under its control and for the establishment and collection of sewer rates, rentals and charges, which sewer rates, rentals and charges, applicable within the limits of a city forming a district pursuant to KRS 76.010, shall be subject to the approval, supervision and control of the legislative body of the city as hereinafter provided.
- (8) To make contracts and execute all instruments necessary or convenient in the premises.
- (9) To borrow money and to issue negotiable bonds and to provide for the rights of the holders thereof.

- (10) To fix and collect sewer rates, rentals, and other charges, for services rendered by the facilities of the district, which sewer rates, rentals, and other charges, applicable within the limits of a city forming a district pursuant to KRS 76.010, shall be subject to the approval, supervision and control of the legislative body of such city as hereinafter provided.
- (11) To enter on any lands, waters and premises for the purpose of making surveys, and soundings and examinations.
- (12) To approve or revise the plans and designs of all trunk, intercepting, connecting, lateral and outlet sewers, storm water drains, pumping and ventilating stations, disposal and treatment plants and works proposed to be constructed, altered or reconstructed by any other person or corporation, private or public, in the whole county, in order to insure that such proposed construction, alteration or reconstruction shall conform to and be a part of a comprehensive sewer and drainage system for the said county. No sewers, drains, pumping and ventilating stations, or disposal and treatment plants or works shall be constructed, altered or reconstructed without approval by the board of the district. Any such work shall be subject to inspection and supervision of the district.
- (13) To enter into agreements with another entity or entities to acquire by purchase or lease, any real or personal property, or any interest, right, easement, or privilege therein, outside of the district's jurisdictional boundaries, in connection with the acquisition, construction, operation, repair, or maintenance of any sewage, wastewater, or storm water facilities, notwithstanding any other provision of the Kentucky Revised Statutes restricting, qualifying, or limiting their authority to do so, except as set forth in KRS Chapter 278.

76.085 Privately constructed sewers to be approved; investigation, charges

- (1) Any person or corporation, public or private, in the county in which such district is located submitting for approval plans and designs of sanitary sewers or storm water drainage facilities, or both, to be constructed by such person or corporation, private or public, pursuant to KRS 76.080 shall file with the district a written application for such approval or other action upon the plans and designs submitted by such person or corporation.
- (2) When the district receives an application for approval of plans or designs of sanitary sewers and/or storm water drainage facilities to be constructed by some individual or corporation, the metropolitan sewer district is authorized and empowered to examine, inspect and investigate, as seems to be advisable, the sufficiency of the facilities which the application seeks to construct, to serve the purposes intended, and to establish and make reasonable charges for such services on the basis of a schedule adjusted according to the services required to make such investigation or on any other reasonable method.
- (3) When it appears to the district that the construction of any sanitary sewer and/or storm water drainage facility being made by any other individual or corporation, requires inspection and supervision in order to assure the protection of public health and the proper subsequent completion of such facility for the purposes intended, the metropolitan sewer district shall include such finding in its order approving, modifying or disapproving the particular plans and projects, and shall charge such person or corporation for such inspection and supervision on the basis of the actual cost of inspection plus a reasonable additional cost of supervision.

76.090 Rates, rentals, and charges; use of funds of district; cutting off sewer and water service to delinquents

- (1) The district may establish a schedule of rates, rentals, and charges, to be collected from all the real property within the district area served by the facilities of the district, and prescribe the manner in which and the time at which the rates, rentals, and charges are to be paid, and may change the schedule from time to time as the district deems necessary, advisable or expedient. The schedule may be based upon either:
 - (a) The consumption of water on premises connected with the facilities, taking into consideration commercial and industrial use of water; or
 - (b) The number and kind of plumbing fixtures connected with the facilities; or
 - (c) The number of persons served by the facilities; or
 - (d) May be determined by the district on any other basis or classification which the district determines to be fair and reasonable, whether similar or dissimilar to those enumerated, except that the schedule shall be uniform for all residential property; or
 - (e) Any combination thereof.

This schedule may include additional charges for treatment of sewage, with a surcharge where the sewage contains industrial wastes or other wastes in excess of limitations established by regulations of the district.

- (2) Prior to the final adoption or modification of the schedule for the district area, the district shall adopt a proposed schedule and publish notice thereof pursuant to KRS Chapter 424. The notice so published shall be dated as of the date of first publication thereof and shall state that the proposed or revised schedule of rates, rentals, and charges will remain open for inspection in the office of the district for thirty (30) days from the date of the notice, and that objections thereto in writing may be filed during that period with the district by any person aggrieved thereby. The district shall examine and hear any and all complaints, may modify the proposed schedule, and shall adopt and establish a final schedule within sixty (60) days after the date of the notice; the schedule, however, shall not become final within a county outside a city of the first class until it has been approved by the fiscal court of the county, or shall not become final within a city of the first class, unless and until it has received the approval of the legislative body of the city of the first class by ordinance approved by the mayor; provided, however, the schedule finally adopted shall be sufficient and adequate to cover the purposes of this chapter. The schedules shall be uniform for all property falling within the same classification, which classification may be based upon the length of time the property has been in the district area, the drainage area within which the property lies, or any similar or dissimilar reasonable classification, except that the schedule shall be uniform for all residential property. The schedule so adopted and established shall thereafter be the rates, rentals, and charges for the use of the facilities of the district by users within the district area, until changed in the manner herein provided. The schedule of rates, rentals, and charges shall be established and revised from time to time so as to produce aggregate revenues to the district sufficient:
 - (a) For the payment of the interest on and principal of all revenue bonds and other obligations of the district except construction subdistrict obligations and bonds;
 - (b) For the payment of all cost and expenses of operating and maintaining the sewer and drainage system of the district within the district area, including but not limited to that portion of the

salaries, wages, and fees of all officers and employees of the district equitably allocable to operations within or for the district area; and

- (c) For the payment of all cost of renewals and replacement of such system within the district area; provided, however, that all expenses, salaries, wages, and fees necessary or incident to improvements for the account of which bonds are issued, may be included as a part of the cost of the improvements and paid from the proceeds of the bonds.

The district may collect the sewer rates, rentals, and charges, or cause them to be collected and paid to it by agencies it designates, and with whom it may make such contracts or arrangements as the district deems proper. No moneys received on account of the existence or operation of construction subdistricts shall be used for the payment of district obligations, and no other moneys received by the district shall be used for the payment of construction subdistrict bonds or obligations. Except as provided in the preceding sentence, the use of all moneys of the district received from any and all sources is hereby limited exclusively and shall be devoted solely to the payment of all obligations of the district and board created by KRS 76.010 to 76.210, and no funds from any sources authorized by KRS 76.010 to 76.210, shall be diverted to any other purposes than those in KRS 76.010 to 76.210 set forth, except that the district shall pay from district area revenues an equitably allocable share of the cost of constructing and operating any nondistrict area facilities to which sewage from the district area is diverted in order to relieve facilities from excessive sewage and costs described in KRS 76.248 but otherwise paid for.

- (3) Whenever an area located within the district is served initially by a construction subdistrict facility, the schedule of rates, rentals, and charges applicable to the particular construction subdistrict shall, at the discretion of the board, be applied to the area.
- (4) Whenever any such sewer rates, rentals, or charges for services rendered remains unpaid for a period of thirty (30) days after the same becomes due and payable, the district shall declare the property, the owner thereof, and the user of the service, delinquent until such time as all service rates, rentals, and charges are fully paid and may cut off the sewer connection and service. It is unlawful for any delinquent to use water from any public water service or system and discharge same into a public sewer. No public water service or system shall furnish the delinquent with water to be discharged into a public sewer. The district may enter into agreements with any public water company or public water service providing for the discontinuance of water service to delinquents.

76.100 Construction, improvement or extension of sewer and drainage system; contracts; contractors' bonds

It shall be the duty of the district as promptly as possible, to rehabilitate, construct, improve, and extend, any sewer and drainage system taken over and controlled by it, which shall include, but is not limited to, disconnection of storm water drains and constructing outlets therefor, where such work is necessary to relieve existing sanitary sewers of storm water loads, in order to permit the efficient operation of such sanitary sewers. The district may make rules and regulations for the submission of bids and the construction of such additions, betterments, and extensions, or any part thereof. No contract shall be entered into for construction work or for the purchase of materials, unless the contractor shall give an undertaking with corporate surety in an amount approved by the board for the faithful performance of the contract. As to contracts entered into for construction, such undertaking shall provide, among other things, that the person or corporation entering into such contract with the district will pay for all materials furnished and services rendered in the performance of the contract, and that any person or corporation furnishing such materials or rendering such services, may maintain an action thereon to recover for the same against the obligor in the undertaking and the surety, as though such person or corporation was named therein.

76.110 Power to acquire land; procedure in cases requiring condemnation

- (1) The district shall have the power to acquire by purchase, gift or eminent domain proceedings, the fee or such right, title, interest or easement, in such lands as may be deemed by the district necessary for any of the purposes mentioned in KRS 76.010 to 76.295, whether within or without the district area or within or without a construction subdistrict and any personal property necessary for the purpose of the district. Such lands or interest therein, or personal property may be so acquired whether or not the same are owned or held for public use by corporations, associations, or other persons having the power of eminent domain, or otherwise held or used for public purposes. Nothing in this chapter shall be construed to confer upon or recognize in the district any power to acquire by agreement, purchase or gift, or by eminent domain proceedings, any fee, right, title, interest or easement in property under the jurisdiction of the department of highways or included within the boundaries of any sanitation district organized under KRS Chapter 220, except necessary rights of way for trunk sewers through such sanitation districts. Forthwith upon the acquisition of any such fee, right, title, interest or easement, or personal property, the same shall become dedicated to the uses and purposes of the district.
- (2) The method of condemnation of such property shall be pursuant to the Eminent Domain Act of Kentucky.
- (3) When a district has filed a proceeding to condemn land or any interest therein or personal property, pursuant to the provisions of the Eminent Domain Act of Kentucky, and the board of such district shall determine that the necessity for procuring possession of the property is urgent, it may pass a resolution, at the time that said condemnation is authorized or at any time thereafter for a declaration of taking, declaring that said lands are to be taken for the use of a metropolitan sewer district. Said declaration of taking shall contain, or have annexed thereto, the following:
 - (a) A statement of the authority under which and, the public use for which, said lands are taken;
 - (b) A description of the lands taken sufficient for identification thereof;
 - (c) A statement of the estate or interest in said lands taken for said public use;
 - (d) A plat showing the lands taken.
- (4) At any time after the report of the commissioners has been made, the district may file said declaration of taking and make a deposit with the clerk of the court of the sum of money stated in the award of the commissioners appointed. Title to said lands in fee simple or such lesser estate as is specified in said declaration or to said personal property shall then vest in such metropolitan sewer district, and the right to just compensation for said land or interest therein or personal property shall vest in the persons entitled thereto. Said compensation shall be ascertained and awarded in said proceeding as otherwise provided in the Eminent Domain Act of Kentucky.

76.120 Facilities of public service corporations, expense of reconstructing or replacing; entering upon or damaging public way or place

Where railroad tracks, street railroad tracks, gas or water pipes, telephone wires, telegraph wires, electric light or power lines, or conduits, for carrying telephone or telegraph or electric wires, or poles, or other structures of any public service corporation, extend in, along or across any part of the work authorized by KRS 76.010 to 76.210, it shall be and become the duty of the person or corporation owning or using such tracks, pipes, wires, conduits, poles, or other structures, to make such changes in the same at the expense of the district as may be required during the construction of any improvement provided for in KRS 76.010 to 76.210, and to construct

or rebuild at the expense of the district its tracks, pipes, wires, conduits, poles, or other structures, over or along the work by KRS 76.010 to 76.210 authorized and constructed, and at its own expense to maintain the same after such work has been completed; provided, however, such changes of that part of such tracks, pipes, wires, conduits, poles or other structures as may be or extend in a public way, shall be made at the expense of the public service corporation owning or using the same only if necessary to afford the district reasonable use of such public way. Reasonable notice in writing of such necessary changes shall be given by the district to the parties concerned. The district may, after obtaining the written approval of the agency owning the right-of-way thereof, enter upon streets, highways, bridges, or public places, for the purpose of constructing any additions, betterments, or extensions of the facilities of the district. Whenever the district has entered upon and damaged any street, highway, bridge, or other public place, same shall be restored to its former condition at the expense of the district.

76.130 Deposit and paying out of moneys of district

All moneys of the district, from whatever source derived, shall be paid to the secretary-treasurer. Such moneys shall be deposited in the name of the district by the secretary-treasurer, in one or more banks or trust companies, situated in the county in which said city is located, having a capital and surplus of not less than \$500,000. The district may require that any or all such deposits be continuously secured by the pledge of direct obligations of the United States of America, having such value as may be satisfactory to the district. Such securities shall either be deposited with the secretary-treasurer or be held by a trustee or agent satisfactory to the district. In lieu of any such pledge of such securities, such funds may be secured by corporate surety bond or bonds, which shall be in form, sufficiency, and substance satisfactory to the district. All banks and trust companies are authorized to give such security for such deposits. The moneys in such accounts shall be paid out by the secretary-treasurer on warrants signed by the secretary-treasurer and countersigned by the chairman or vice chairman of the board, or signed and countersigned by such other person or persons as the board may from time to time designate by resolution.

76.140 No power to levy taxes

The district shall not have power to levy ad valorem taxes upon any property for any purpose whatsoever.

76.150 District revenue bonds

- (1) Subsections (2) through (4) have no application to construction subdistrict bonds or obligations. All references to revenues, rates, rentals, charges, or collections in subsections (2) and (3) exclude those derived from or made on account of construction subdistricts. District facilities referred to in subsections (2) and (3) exclude construction subdistrict facilities.
- (2) The district may, from time to time, issue its negotiable interest-bearing revenue bonds for any of its corporate purposes, and it may also, from time to time, issue its negotiable interest-bearing revenue bonds to refund any of its bonds at maturity or pursuant to redemption provisions, or at any time before maturity with the consent of the holders. All the bonds, including interest, are payable solely from and secured only by revenues of the district realized through the collection of rates, rentals, or other charges, imposed for use of the facilities of the district. The bonds shall be authorized by resolution of the board and shall bear the dates, mature at the times not exceeding forty (40) years from their respective dates, bear interest at the rate or rates or method of determining rates, payable at least annually, be in the denominations and form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment at the place, and be subject to the terms of redemption, with or without premium, as the resolutions provide; except that before the issuance of bonds for any project within the corporate limits of any city forming a district pursuant to KRS 76.010, the issuance of bonds shall first be authorized by ordinance passed by the legislative body

of the city and approved by the mayor of the city. The bonds shall be sold at public sale for the price as the board determines.

- (3) Any resolution authorizing any bonds may contain provisions, which shall be a part of the contract with the holders of the bonds, as to:
 - (a) Pledging all or any part of the gross or net revenues of the district to secure the payment of the bonds and interest on the bonds;
 - (b) The amounts to be raised in each year by rates, rentals, and charges, and their use and disposition, and of any other revenues of the district;
 - (c) The setting aside of reserves or sinking funds and their regulation and disposition;
 - (d) Limitations on the right of the district to restrict and regulate the use of its facilities;
 - (e) Limitations on the purposes to which the proceeds of sale of any issue of bonds to be issued may be applied;
 - (f) Limitations on the issuance of additional bonds; and
 - (g) The procedure, if any, by which the term of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent, and the manner in which the consent may be given.
- (4) The bonds or other obligations of the district shall not constitute an obligation or indebtedness of the city or of the county and it shall be plainly stated on the face of each bond of the district that it has been issued under the provisions of KRS 76.010 to 76.210, and that it does not constitute an indebtedness of the city or of the county. All bonds authorized may be issued without a vote of the voters and without any other proceedings or happenings of any other conditions or things than those proceedings, conditions and things which are specified and required by KRS 76.010 to 76.210. The bonds shall be signed in the name of the district by the chairman or vice chairman of the board, attested by the signature of the secretary-treasurer, with corporate seal of the district attached.

76.160 Enforcement of rights of bondholders; trustee; receiver

- (1) Subsections (2) and (3) have no application to construction subdistrict bonds or obligations. All references to revenues, rates, rentals, charges, or collections in subsections (2) and (3) exclude those derived from or made on account of construction subdistricts. District facilities referred to in subsections (2) and (3) exclude construction subdistrict facilities.
- (2) In the event that the district shall default in the payment of principal of, or interest on, any of the bonds issued pursuant to KRS 76.010 to 76.210 after the said principal or interest shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty (30) days, or in the event that the district shall fail or refuse to comply with the provisions of KRS 76.010 to 76.210, or shall default in any agreement made with the holders of the bonds, the holders of twenty percent (20%) in aggregate principal amount of the bonds then outstanding, by instrument or instruments filed in the office of the county clerk of the county embracing the district and proved or acknowledged in the same manner as a deed to be recorded, may apply to a judge of the Circuit Court of the county, to appoint a trustee to represent all of the bondholders for the purposes herein provided. Upon such application such judge shall appoint a trustee and such trustee may, and upon written request

of the holders of twenty percent (20%) in principal amount of the bonds of the district then outstanding shall, in his or its own name, (a) by mandamus or other suit, action or proceeding at law or in equity, enforce all rights of the bondholders, including but not limited to the right to require the district to collect rates, rentals, and other charges, adequate to carry out any agreement as to, or pledge of, the revenues of the district, and to require the district and its officers to carry out any other agreement with the bondholders and to perform its and their duties under KRS 76.010 to 76.210; (b) bring suit upon the bonds; (c) by action or suit in equity, require the district to account as if it were the trustee of an express trust for the bondholders; (d) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of bondholders; (e) declare all bonds due and payable, and if all defaults shall be made good then to annul such declarations and its consequences.

- (3) Any such trustee, whether or not all bonds have been declared due and payable, shall be entitled as of right, upon application to the judge in the chancery branch, to the appointment of a receiver, who may enter upon and take possession of the facilities of the district, or any part or parts thereof, and operate and maintain the same, and collect and receive all rentals, rates, and other charges, and other revenues, of the district, thereafter arising therefrom, in the same manner as the district and its officers might do, and shall deposit all such moneys in a separate account and apply the same in such manner as such court shall direct. In any suit, action, or proceeding, by the trustee, the fees, counsel fees, and expenses of the trustee and of the receiver, if any, shall constitute disbursements taxable as costs. All costs and disbursements allowed by the court shall be a first charge on any revenue derived from the facilities of the district. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the bondholders in the enforcement and protection of their rights.

76.170 Area included in district; construction subdistrict excluded; extension of boundaries

- (1) The initial unit of the district embraces the area that is coterminous with the boundaries of the city forming a district pursuant to KRS 76.010. The district also embraces the district area as defined in KRS 76.005. When territory which is part of a construction subdistrict is annexed to the city, that territory shall not become part of the district area during the existence of the construction subdistrict. When the existence of the construction subdistrict is wound up under KRS 76.271, the territory therein shall become a part of the district area if it is then a part of the city or whenever it is annexed by the city. When a construction subdistrict consisting of territory outside the city is wound up, the board of the district shall incorporate the territory into the district area under conditions of KRS 76.271. The district may also expand the district area by constructing and extending its initial sewer and drainage system and facilities beyond the corporate limits of the city and within the county in which the city is located whenever the district and the owners of real property to be served and located outside the limits of the city, by appropriate written instrument, agree as to apportionment of any and all costs of construction work, subsequent maintenance and operation appertaining thereto, and as to payments by the owners of the real property, of rates, rentals and charges for the services and facilities to be thus afforded and for that portion of the district's capital costs, equitably allocable to the real property. Thereupon the real property served becomes a part of the district area. In a like manner and upon the same conditions, the district may construct and extend its sewer and drainage system and facilities so as to serve all or any part of any other city or other incorporated area located in the same county, pursuant to a written agreement between the district and the other city or incorporated area approved by their respective governing boards or bodies; provided, however, nothing in this subsection shall be construed as requiring the district to obtain the consent of any city with a population of less than three thousand (3,000) based upon the most recent federal decennial census located within a county containing a consolidated local government prior to constructing any sanitary or storm sewerage facilities within the limits of such a city, regardless of whether said facilities will serve the said city or not. All agreements referred to in this section shall be in appropriate form for recording and shall be filed of record with the

county clerk as other instruments relating to transfer or creating a lien upon real estate. Any agreements entered into by the district pursuant to this section may provide that the district area shall include the real estate in such city or incorporated area, or part thereof, to be served pursuant to such agreement, and in such case when such instrument has been filed of record with the county clerk as aforesaid, the district area shall be thereby officially enlarged and extended to include same; except that the district area shall not be enlarged to include a construction subdistrict by agreement or otherwise.

- (2) The district may also expand the district area by constructing and extending its initial sewer and drainage system, or by constructing or extending new sewerage and drainage systems and facilities, into areas of the county outside of the city of the first class and annexing the areas to be served by such new or expanded systems or facilities to the district area, as provided in KRS 76.171.
- (3) The words “incorporated area” as used in this section do not mean or apply to any sanitation district organized under KRS Chapter 220.
- (4) The provisions of this section shall not apply in cases involving annexation by a city of the first class pursuant to KRS 81.300 to 81.360.

76.171 Construction of branch or lateral sewer lines in territory annexed to first-class city

Where adequate sanitary sewers, combined sewers, drains, appurtenances, or property service connections have not been constructed in any territory annexed to a city of the first class since July 1, 1946, the city legislative body may, by ordinance, on recommendation of the board of the metropolitan sewer district, which includes such city, construct sanitary sewers, combined sewers, drains, appurtenances or property service connections within such territory, to connect with the city sewerage or drainage system, at the cost of the area benefited.

76.172 Apportionment of construction costs; liens; apportionment warrants; notice

- (1) The ordinance providing for the construction of sewerage or drainage facilities and appurtenances shall describe the nature and kind of facilities to be furnished and shall describe the particular area benefited by said sewerage or drainage facilities.
- (2) The costs of the sanitary sewers, combined sewers, drains, and appurtenances shall be assessed against the land in said benefited area according to the number of square feet in any lot or tract within the area described in the ordinance, or according to any other equitable basis. If the square foot method of assessment is used, the rate of apportionment shall be the same for each square foot of land in said benefited area, and shall be determined by dividing the cost of the assessable sanitary sewers, combined sewers, drains and appurtenances by the total area of all land benefited in the area. No property which has been assessed for collector lines shall be reassessed for the installation or reinstallation of collector lines.
- (3) The costs of property service connections from the sewer to the property line or easement line as required shall be assessed against the individual lots or tracts to which such property service connections are furnished. The costs to be assessed for the property service connections shall be fixed by regulation of the metropolitan sewer district based on its experience of costs for such work.
- (4) All land included in said described territory shall be assessed, except such property dedicated to use for public roadways and property owned by cities forming a district pursuant to KRS 76.010, counties containing cities forming a district pursuant to KRS 76.010, and any joint agencies of such cities and counties.

- (5) When the board of a metropolitan sewer district determines that such construction of sanitary sewers, combined sewers, drains, appurtenances or property service connections at the cost of the property owners shall be recommended to the board of aldermen of a city of the first class, the metropolitan sewer district shall cause its engineering department to prepare complete drawings and specifications for the work and to keep same available for inspection in its offices.
- (6)
 - (a) The actual construction work of the sanitary sewers, combined sewers, drains, appurtenances or property service connections constructed pursuant to such ordinance shall be done by, or under the control of, the metropolitan sewer district.
 - (b) The cost of the sanitary sewers, combined sewers, drains, appurtenances or property service connections shall include not only the actual construction costs and the costs of any easements required for the sewers, but also costs of surveys, designs, plans, specifications, advertising, inspection and administration; however, these costs other than actual construction costs and costs of easements shall not exceed fifteen percent (15%) of the actual construction cost of the project. The costs of surveys, designs, plans, specifications, advertising, inspection and administration, but not exceeding a total of fifteen percent (15%) of the actual construction costs and the cost of any easements shall be paid by the contractor to the metropolitan sewer district at the completion of the work so that such costs may be included in the apportionment warrants.
- (7) A lien superior to all liens except the liens for state, county, city, school and road taxes and liens prior in time for other public improvements shall exist against the respective lots or tracts of land for the cost of the sanitary sewers, combined sewers, drains, appurtenances or property service connections for apportionment as hereinafter provided for, and interest thereon at the rate of six percent (6%) per annum.
- (8) No error in the proceedings of the city legislative body shall exempt such property from payment after the work has been done as required by either the ordinance or contract, but the city legislative body, or the courts in which suits shall be proceeding, shall make all corrections, rules and orders to do justice to all parties concerned. In no event, if the sanitary sewers, combined sewers, drains, appurtenances or property service connections are constructed as provided, by ordinance or contract, shall the city or the metropolitan sewer district be liable for the costs of the sanitary sewers, combined sewers, drains, appurtenances or property service connections without the right to enforce such costs against the property receiving the benefit.
- (9) Upon completion and acceptance of the sewer facility constructed, the metropolitan sewer district shall make out all apportionment warrants for which liens are given for improvements of sewer facilities and shall immediately enter them in alphabetical order upon a register kept for that purpose. When the holder of the warrant has obtained payment, he shall notify the metropolitan sewer district and it shall mark upon the register the fact of payment.
- (10) The lien shall exist from the date of the apportionment warrant, but a lien shall not be valid against a purchaser for a valuable consideration without notice, unless the apportionment warrant is entered and registered within ten (10) days of its issuance.
- (11) After any sewer facilities have been constructed in conformity with this section the metropolitan sewer district shall give notice by publication pursuant to KRS Chapter 424 of the costs apportioned, and the amounts assessed and levied on the various tracts of land liable for the payment.
- (12) When property is annexed to a city forming a district pursuant to KRS 76.010 and subsequently is connected to a sewer owned or operated by the metropolitan sewer district, payment shall be made to

the district of a proportionate part of the construction costs of the sewer on the basis that would apply if the sewer were being built within the corporate limits of the city by apportionment of costs against the benefited area as provided in this section.

- (13) The district may construct sewerage or drainage facilities in areas of the district located outside of the city of the first class by assessment, using the procedures set forth in this section, with the word “ordinance” being read as “resolution,” the words “board of aldermen” being read as “fiscal court,” the words “city legislative body” being read as “fiscal court,” and the word “city” being read as “county.”

76.173 Completed sewers and drains to become part of city’s system

When completed any sewers or drains described in KRS 76.171 or 76.172 shall become a part of the district area’s sewer and drainage system, subject to charges for service the same as from other parts of the system within the district area.

76.175 Annexation by district of unincorporated area or city or part of city with population of less than 3,000 located in county containing consolidated local government; procedure; appeals

The board of the district may annex any unincorporated area in the county, or any area of the county containing all or any part of a city with a population of less than three thousand (3,000) based upon the most recent federal decennial census located within a county containing a consolidated local government, whether contiguous or noncontiguous, to the district by making a preliminary order describing the area to be annexed and causing said order to be published pursuant to KRS Chapter 424. The notice so published shall state that objections in writing to the proposed annexation may be filed with the district within thirty (30) days of the date of said notice. The district shall examine and hear all such complaints. It may modify or amend the areas proposed to be annexed; and it shall make a final order, within sixty (60) days of the date of publication of said notice, describing the area or areas to be annexed and shall cause the same to be published pursuant to KRS Chapter 424. Within sixty (60) days after final publication of an order made pursuant to this section, any freeholder of land within the area or areas proposed to be annexed may appeal such final order to the Circuit Court for the county in which the district is located. All matters appealed shall be tried as an equitable action. Decisions of the Circuit Court may be appealed to the Court of Appeals.

76.180 Rules and regulations; sewers regulated; citizens’ complaints; appeals

- (1) The district shall have power to make and promulgate all rules and regulations proper or necessary to regulate the use, operation, and maintenance of property and facilities under its control, and to carry into effect the powers granted the district by KRS 76.010 to 76.295. The jurisdiction of the district shall extend outside of the district area and outside of construction subdistricts for regulation of any sewers, drains, or watercourses, which by natural flow, or otherwise, empty into or flow through any part of the district area, a construction subdistrict, or the district facilities, or are used by the district or flow through or are constructed in the county in which the district exists.
- (2) The board shall develop a procedure and designate an independent hearing officer for the hearing, review, and resolution of citizens’ complaints and grievances that concern:
 - (a) Prioritization of sewer and drainage service requests conducted by the district’s maintenance or operations departments;
 - (b) Billing grievances involving the accuracy of individual or residential bimonthly sewer and drainage

bills, sewer assessments, and the district's billing policies and procedures;

- (c) Reimbursement for plumber's bills;
 - (d) Inadequate property restoration by district's crews or contractors; and
 - (e) Rude or inappropriate behavior by district employees.
- (3) Any person or corporation, public or private, affected by the exercise of powers granted the district may appeal a decision of the district to the hearing officer provided for in subsection (2) of this section. Appeals shall be limited to the complaints and grievances outlined in subsection (2) of this section. The appeals shall be in writing and shall state:
- (a) The circumstances of the district's action;
 - (b) The reason the appellant is aggrieved;
 - (c) Any citations of regulations or statutes the appellant believes to be pertinent to the appeal; and
 - (d) Recommendations of convenient times to hold a hearing on the matter.
- (4) The hearing officer shall conduct a hearing within ninety (90) days of receipt of an appeal, and shall inform each appellant in writing of the date, time, and location his appeal will be heard. The site for each hearing shall be chosen by the hearing officer to meet the needs of the aggrieved party or parties. Citizens shall be given the greatest possible latitude regarding the introduction of evidence at all hearings.
- (5) The hearing officer shall make a decision on each appeal that is consistent with applicable law and the policy of the district. The decision shall be forwarded to the board in the form of a recommendation within thirty (30) days of the hearing. The board shall review the findings of the hearing officer and accept or reject the recommendation within thirty (30) days of receiving it.
- (6) Copies of the board's decision and the hearing officer's recommendation shall be sent to the appellant and the members of the General Assembly who represent any area within the district's jurisdiction within fifteen (15) days of the board's decision.

76.190 Agreements with other cities or districts

In order to promote and protect its activities and facilities, and in furtherance of the public health, the district may enter into contracts with, and thereunder it may permit other cities, towns, municipalities, sewer and drainage districts, located in the same county as the city forming a district pursuant to KRS 76.010, to connect with and use the facilities of the district. The rates for service and connections shall be as agreed upon between the contracting parties.

76.200 Federal or state aid

The district is authorized to enter into negotiations with the federal government and the Commonwealth of Kentucky, or either of them, or the agencies of both or either, and apply and obtain from them or either or both of them, any and all grants-in-aid that may be available.

76.210 Tax exemptions

It is hereby found and declared that the creation of the district and the carrying out of its corporate purposes is in all respects in the interest of the public health and is a public purpose; that the district is performing a governmental function in the exercise of the powers conferred upon it by KRS 76.010 to 76.210 and it shall be required to pay no taxes or assessments upon any property owned or acquired by it, under its jurisdiction, control, possession, or supervision, or upon its activities in the operation and maintenance of its facilities. Bonds issued by the district and income therefrom are exempt from taxation.

JOINT SEWER AGENCIES

76.231 Joint sewer agency established; powers; administration; dissolution

- (1) As an alternative to establishing a metropolitan sewer district pursuant to KRS 76.010, any city with a population equal to or greater than twenty thousand (20,000) but less than one hundred thousand (100,000) based upon the most recent federal decennial census, together with the county in which it is located, may jointly establish a sewer agency for the purpose of providing sewer and drainage facilities within the city and the county.
- (2) A joint sewer agency shall be established upon the enactment of identical ordinances establishing and setting out the powers of the agency by both the legislative body of the city and the fiscal court of the county.
- (3) All the powers granted a metropolitan sewer district in cities of the first class by KRS 76.010 to 76.279 may be granted by ordinance to the sewer agency except that these powers may be restricted or qualified in order to conform to the local needs of the county and the city.
- (4) The legislative body of the city and the fiscal court of the county shall establish a schedule of rates, rentals and charges to be collected from all real property served by the facilities of the sewer agency in the manner provided by KRS 76.090. If the city, county, and sewer agency find that local needs warrant, uniformity of rates for all residential property shall not be required for a period of no more than ten (10) years from the date the sewer agency is established under subsection (2) of this section. If for whatever reason the city and county cannot agree to amendments to a rate schedule, the current schedule shall remain in effect until such time as an agreement can be reached.
- (5) For purposes of establishing a schedule of rates, rentals, and charges to be collected, the legislative body of the city and the fiscal court of the county may prescribe by joint ordinance for the creation of a rate adjustment board that shall be comprised of the members of both legislative bodies, sitting as a single body. Upon the creation of a rate adjustment board, a simple majority of the combined membership of the rate adjustment board shall be required to establish rates, rentals, and charges to be collected.
- (6) The joint sewer agency shall be administered as a separate legal entity or by a jointly appointed administrator or joint board as set out in the establishing ordinances.
- (7) The joint sewer agency may be dissolved only by a joint action of the legislative body of the city and the fiscal court of the county. The establishing ordinance may be amended in the same manner as originally enacted.
- (8) The legislative body of any city with a population of less than twenty thousand (20,000) based upon

the most recent federal decennial census may by ordinance elect to be within the jurisdiction of a joint sewer agency established pursuant to this section.

- (9) The joint sewer agency may enter into agreements with another entity or entities to acquire by purchase or lease, any real or personal property, or any interest, right, easement, or privilege therein, outside of the agency's jurisdictional boundaries, in connection with the acquisition, construction, operation, repair, or maintenance of any sewage, wastewater, or storm water facilities, notwithstanding any other provision of the Kentucky Revised Statutes restricting, qualifying, or limiting their authority to do so, except as set forth in KRS Chapter 278.

76.232 Establishment of joint sewer agency by city with population of less than 20,000 to less than 100,000 with county or sanitation district; powers; administration

- (1) A city with a population less than twenty thousand (20,000) based upon the most recent federal decennial census together with the county in which it is located or together with the sanitation district, or any city with a population equal to or greater than twenty thousand (20,000) but less than one hundred thousand (100,000) based upon the most recent federal decennial census together with the county in which it is located or together with the sanitation district, as an alternative to establishing a metropolitan sewer district under KRS 76.010, may jointly establish a sewer agency for the purpose of providing sewer and drainage facilities within the city and the county or within the city and the sanitation district.
- (2) In order to establish a joint sewer agency under this section, the legislative body of the city, the fiscal court of the county, or the governing body of the sanitation district may vote to merge any existing agency or sanitation district or any portion thereof into the jointly established sewer agency or into an existing city or county sewer agency. If the legislative body of the city, fiscal court of the county, or governing body of the sanitation district determines to merge an existing agency or sanitation district into the joint sewer agency, it shall determine a method to satisfy any legal obligations of the existing agency or sanitation district which might be affected.
- (3) A joint sewer agency shall be established upon the enactment of identical agreements establishing and setting out the powers of the sewer agency by all parties establishing the joint sewer agency. Any agreement enacted by a city or county shall be by ordinance. Any agreement enacted by a sanitation district shall be done in the same manner as any other official actions taken by the sanitation district.
- (4) All the powers granted a metropolitan sewer district and cities of the first class by KRS 76.010 to 76.279 may be granted by ordinance to the joint sewer agency except that such powers may be restricted or qualified in order to conform to the local needs of the county, city, and sanitation district.
- (5) The joint sewer agency shall be administered as a separate legal entity or by a jointly appointed administrator, joint board, or one of the merging entities, as set out in the ordinance creating the joint sewer agency.
- (6) The joint sewer agency may be dissolved only by adoption of an ordinance of the legislative body of the city and the fiscal court of the county. The ordinance creating the joint sewer agency shall be amended in the same manner as originally enacted.
- (7) The legislative body of any city with a population of less than twenty thousand (20,000) based upon the most recent federal decennial census may by ordinance elect to be within the jurisdiction of a joint sewer agency established pursuant to this section.

- (8) The joint sewer agency may enter into agreements with another entity or entities to acquire by purchase or lease, any real or personal property, or any interest, right, easement, or privilege therein, outside of the agency's jurisdictional boundaries, in connection with the acquisition, construction, operation, repair, or maintenance of any sewage, wastewater, or storm water facilities, notwithstanding any other provision of the Kentucky Revised Statutes restricting, qualifying, or limiting their authority to do so, except as set forth in KRS Chapter 278.

76.233 Agency revenue bonds

Any city with a population of less than one hundred thousand (100,000) based upon the most recent federal decennial census and the county in which it is located which have established a joint sewer agency pursuant to KRS 76.231 may authorize the issuance of revenue bonds pursuant to the procedure set out in KRS 76.150 and 76.160.

76.234 Compliance with KRS 65A.010 to 65A.090

The board shall comply with the provisions of KRS 65A.010 to 65A.090.

CONSTRUCTION SUBDISTRICTS

76.241 Construction subdistrict established; petition, procedure, judicial review; waiver of notice and hearing

- (1) The district may establish a construction subdistrict when twenty-five percent (25%) or more of the freeholders of land sought to be included in the construction subdistrict file their petition with the district. The petition shall describe the territory intended to be included in the construction subdistrict and the sewer and drainage conditions and facilities existing in this territory. The territory of the construction subdistrict may be noncontiguous to other territory of the district. Tenants in common, joint tenants with or without right of survivorship, and tenants by the entireties shall be deemed one (1) freeholder or property owner.
- (2) When the petition is filed with the district, said district shall give notice of the filing by publication pursuant to KRS Chapter 424. Within thirty (30) days after the publication, any resident or freeholder of the proposed construction subdistrict may file objections and the district shall set the case for hearing within thirty (30) days. If the district finds that the establishment of the construction subdistrict is reasonably necessary for the public health, convenience and comfort of the residents of the subdistrict, it shall make an order establishing the construction subdistrict and designating it by name and number.
- (3) If the district finds that the construction subdistrict is not necessary, it may dismiss the petition. If the district finds that any part of the proposed territory will not be benefited, it may strike such part. If the district strikes a certain portion of the area, the signature of the freeholders of that portion shall not be counted in determining whether the necessary twenty-five percent (25%) have petitioned for the creation of the subdistrict. A copy of the order of the board establishing a construction subdistrict shall be published in accordance with KRS Chapter 424.
- (4) An order of the district rejecting or dismissing the petition shall be deemed a final order of the district appealable to the Circuit Court under the procedure set forth in KRS 76.247 within sixty (60) days. Appeals to the Circuit Court from the order establishing a construction subdistrict or striking or refusing to strike any territory from a construction subdistrict shall be made only as provided in KRS

76.247 and only after following the procedures required in KRS 76.247.

- (5) In the event the owner or owners of all property or properties proposed to be included within the territorial boundaries of a construction subdistrict shall tender to the district their written request or requests that the district proceed immediately with the creation of a construction subdistrict, and the construction and installation therein of sewer facilities as provided in KRS 76.241 to 76.273, inclusive, and shall unqualifiedly waive all formalities and substantive rights contained in:
 - (a) KRS 76.241, concerning the affording of notice as to creation of a construction subdistrict, the time for filing objections to the creation thereof, and the time for appealing from an order establishing a construction subdistrict;
 - (b) KRS 76.243, concerning the affording of notice as to proposed assessments; and
 - (c) KRS 76.246, concerning the holding of a public hearing, and permitting litigation following the making and publication of an order concerning the construction plan in general.
- (6) The district may thereupon make and publish an order creating such construction subdistrict, and its order as provided in KRS 76.246(2), without further action being required, and may thereupon proceed to carry out said plan for improvements without further recourse to said identified statutory provisions and formalities; but in all such instances the written request or requests of the owner or owners of all properties proposed to be included within the territorial boundaries of such construction subdistrict shall be in recordable form and shall be recorded in the office of the county clerk of the county wherein the properties are situated, and said clerk is authorized to record such instruments as in the case of mortgages and may charge and receive fees therefor as in the case of mortgages. Each resolution of the district, by which an improvement is undertaken according to this section, shall contain a recitation of the receiving of written requests and waivers from the owners of all properties included within the territorial boundaries of the construction subdistrict. In the event the district proceeds pursuant to KRS Chapter 107, as authorized by KRS 76.251, the lien for which provision is made in KRS 107.160 shall attach upon publication of the resolution (equivalent to the “third ordinance”) which authorizes issuance of improvement assessment bonds.

76.242 Construction subdistrict not to include nonconsenting cities or districts

The construction subdistrict shall not include the whole or any part of any incorporated city with a population equal to or greater than three thousand (3,000) based upon the most recent federal decennial census, or any sanitation district or sewer construction district, or that part of a water district in which the water district has exercised its power to establish sanitary sewerage facilities pursuant to KRS 74.407 to 74.415, except with the consent of the legislative or managing board of such city or district. With such consent, the property owners of such city or district will be considered as freeholders of the construction subdistrict.

76.243 Engineering survey of construction subdistrict; assessment of benefits; notice

- (1) The board shall, before entering upon any construction work in any construction subdistrict or any contracts therefor, have an engineering survey made of the territory within the construction subdistrict and report to the district board as to plans for sewer or drainage construction or both and as to the estimated cost thereof, with recommendations as to whether or not such construction is technically and economically feasible.
- (2) The district shall add to the engineering report a classification of benefit to property to permit assessment of real estate pursuant to KRS 76.251, 76.253, 76.257 and 76.258 if the district seeks to

finance construction under one (1) of those sections. The district shall cause notice of the proposed assessment to be mailed by first class mail to every affected freeholder at his last known address prior to publication under subsection (1) of KRS 76.246.

76.244 Engineering report, when filed; construction subdistrict may be abolished, when

- (1) The report described in KRS 76.243 shall be made and filed within one (1) year of an order made under KRS 76.241 which establishes the construction subdistrict or the order made under KRS 76.241 shall be deemed to have been one dismissing the petition and it shall be deemed to have been dismissed at the end of the one (1) year period.
- (2) If, based on the report described in KRS 76.243, the board decides the proposed sewer or drainage construction, or both, is not technically and economically feasible, the board may make an order abolishing the construction subdistrict, which shall be published pursuant to KRS Chapter 424 and which may be appealed in the manner described in KRS 76.247. If the board finds that such construction may be made feasible by deleting portions of the subdistrict area, it may delete such area or areas by amending the order made under KRS 76.241 (2); provided, however, that at least twenty-five percent (25%) of the freeholders of land included in the remaining area must have petitioned for the creation of the subdistrict.
- (3) If the board should determine that a proposed construction subdistrict sewer or drainage construction project, once found to be feasible, should no longer appear to be feasible, or should a change in circumstances make it appear that some alternative to a construction subdistrict represents a more desirable and feasible way of undertaking such sewer or drainage construction, then the board, in its sole discretion, may make an order abolishing the construction subdistrict, which order shall be published pursuant to KRS Chapter 424 and which may be appealed in the manner described in KRS 76.247. In referring to KRS 76.247, this section is not intended to provide for de novo trial.

76.246 Notice of hearing, publication; order of construction and assessment

- (1) When the report described in KRS 76.243 is prepared, a copy shall be filed with the secretary-treasurer of the district who shall, within forty (40) days, cause notice of the filing of same and a notice of where the report is available for public inspection to be published pursuant to KRS Chapter 424. The notices shall state the time, date and place for a public hearing on the report. Any affected property owner may appear at the hearing. The district may appoint a hearing officer to conduct hearings, take testimony, and report the hearing to the district board.
- (2) Following the hearing the district shall make and publish an order describing the construction plan in general, setting forth the assessment method adopted, if any, the parcels assessed, provisions if any for application of KRS 107.140 (d), which relates to doing equity with respect to persons paying immediately and those who may be assessed later for extensions, and any other matters the district may see fit to include in the order.

76.247 Appeal from order of establishment or assessment; procedure

Within sixty (60) days after the final publication of an order made under KRS 76.241 which dismisses a petition for creation of a construction subdistrict or within sixty (60) days after final publication of an order made under KRS 76.246 any person who would have been qualified to sign a petition described in KRS 76.241 may appeal such order of the district to the Circuit Court for the county in which the district is located. All matters appealed from shall be tried de novo and as an equitable action. Decisions of the Circuit Court may be appealed to the Court of Appeals.

76.248 District may construct or contract for construction; no debts incurred until assessment final

The district may carry out the plan itself or contract with others for construction of the sewerage facilities. The district shall incur no debts or obligations, aside from engineering study and administrative costs, on account of the construction subdistrict until an order made under KRS 76.246 is final and no longer appealable.

76.249 Combined methods of financing

The district may adopt any combination of the financing methods for construction subdistricts authorized by KRS 76.251, 76.253, 76.254, 76.257, 76.258 and 76.259 which are fair and equitable to the residents and freeholders of the construction subdistrict and which protect and preserve the rights of holders of subdistrict bonds and obligations already issued or to be issued with respect to the construction subdistrict. The method or methods adopted need not be uniform for all portions of the construction subdistrict, but may be based upon reasonable classification of the realty in the various portions.

76.251 Assessment of costs; lien; payment; effect of nonpayment

For facilities designed to serve the construction subdistrict the district may, pursuant to KRS 76.243, adopt a method of assessment of benefited property on the basis of acreage or any other equitable basis set forth in the order and notify property owner affected in accordance with subsection (11) of KRS 76.172. From that date the assessment shall constitute a lien against the property. The landowner may pay the assessment in full at any time within thirty (30) days after notice of assessment; provided, however, that if assessments are levied in accordance with KRS 107.010 to 107.220 the assessment cannot be paid in full within thirty (30) days. Every property owner not paying the full amount of his assessment within thirty (30) days shall be presumed to have consented to the issuing of sewer or drainage construction bonds. Liens may be recorded in any manner that any other statutory lien can be recorded.

76.252 Priority of construction subdistrict assessment liens; enforcement

- (1) Assessment liens imposed by KRS 76.005 to 76.295 are prior to all other liens except liens for taxes and other assessment liens already attached.
- (2) Assessment liens may be enforced pursuant to KRS 426.005 and 426.006.

76.253 Bonds if assessments not paid; terms; payment of assessments in installments

- (1) If all construction subdistrict assessments are not paid in full by thirty (30) days after notice of assessments, the district may issue bonds for the amount of the unpaid assessment, and shall give notice that it proposes to issue bonds, giving the amount of bonds to be issued, and the time they will become payable.
- (2) At the expiration of thirty (30) days after the publication, the district may divide the unpaid assessments into not more than forty (40) annual installments, which shall draw interest at the rate or rates or method of determining rates as the district determines, and be payable at least annually, from thirty (30) days after the date of publication. The bonds shall mature in series to correspond with the installments into which the unpaid assessments are divided, and shall draw interest at the rate or rates or method of determining rates determined by the district, be payable at least annually, and be payable at some place to be designated by the district. The bonds shall be for the exclusive use and benefit of the construction and shall designate on the face the name of the construction subdistrict and the purpose for which they were issued.

- (3) The district, in dividing the unpaid assessments into installments, shall fix the time of payment, and each landowner shall pay the installments due on his land, with interest due on that installment and deferred installments, to the district on or before the time fixed by the district for the maturity of the installment.
- (4) For purposes of KRS 76.263, assessments described in this section shall be deemed rates, rentals, or charges. Assessments may also be enforced by civil action.
- (5) Bonds issued pursuant to this section are construction subdistrict bonds and obligations and are not obligations of the district.

76.254 Revenue bonds of construction subdistrict; procedure; contents

- (1) The district is authorized and empowered to issue negotiable, interest-bearing, construction subdistrict bonds which shall not be an obligation of the district; construction subdistrict revenue bonds shall be secured solely by the revenue pledged by KRS 76.262 and by moneys, if any, in the construction subdistrict reserve fund authorized by KRS 76.262. Construction subdistrict bonds can be issued to obtain funds for the building, installation, or acquisition of construction subdistrict facilities or for refunding construction subdistrict bonds of the same construction subdistrict. Notwithstanding the foregoing two sentences, construction subdistrict bonds can be served by assessments.
- (2) Construction subdistrict bonds shall be authorized by resolution of the board, shall bear a date or dates, shall mature at a time or times, not exceeding forty (40) years from their respective dates, bear interest at a rate or rates or method of determining rates, payable at least annually, be in a form, wholly registered, registered as to principal with bearer coupon, or bearer with coupon, carry registration privileges, be executed in a manner, be payable in a manner, be payable in a medium of payment at a place or places, and be subject to the terms of redemption, with or without premium, as the resolution or resolutions may require. Construction subdistrict bonds shall be sold at public sale for the price or prices as the board determines.
- (3) Any resolution or resolutions authorizing any bonds pursuant to this section may contain provisions, which shall be a part of the contract with the holders of the bonds, concerning
 - (a) A pledge of or a security interest in the revenue derived from the construction subdistrict;
 - (b) The amounts to be raised in each year by rates, rentals, and charges, and their use and disposition;
 - (c) The setting aside of reserves or sinking funds and their regulation and disposition;
 - (d) Limitations on the right of the district to restrict and regulate the use of the subdistrict facilities;
 - (e) Limitations on the purposes to which the proceeds of sale of any issue of bonds to be issued with respect to the same construction subdistrict may be applied;
 - (f) Limitations on the issuance of additional bonds for the same construction subdistrict; and
 - (g) The procedure, if any, by which the term of any contract with bondholders may be amended or be abrogated, the amount of the bonds the holders of which must give consent, and the manner in which the consent may be given.

- (4) Construction subdistrict bonds shall not constitute an obligation or indebtedness of the district or of any city or county, and it shall be stated plainly on the face of each construction subdistrict bond that it has been issued under the provisions of KRS 76.005 to 76.295 and that it does not constitute an obligation or indebtedness of the district or any city or county. All construction subdistrict bonds issued may be issued without any other proceedings or happenings of any other condition or things than those proceedings, conditions, and things which are specified and required by KRS 76.005 to 76.295. Construction subdistrict bonds shall be signed in the name of the district by the chairman or vice chairman of the board, attested by the signature of the secretary-treasurer, with corporate seal of the district attached. The bonds may also be executed pursuant to KRS 61.390.

76.256 Refunding of bonds secured by assessments

If bonds have been issued for any construction subdistrict secured entirely or partially by the right to levy an assessment as provided by KRS 76.251 to 76.257, 76.261 to 76.267 and 76.271 to 76.273 and such bonds are redeemed prior to maturity, bonds to refund same may be issued secured solely by the revenue of said system in the manner provided in KRS 76.254.

76.257 Financing may be arranged as in cities, terms in KRS Chapter 107 defined

- (1) In the financing of a construction subdistrict the district may use the authority and procedures granted to incorporated municipalities by KRS 107.010 to 107.220. When applied to construction subdistricts, terms used in KRS 107.010 to 107.220 shall be construed to mean the following: “city” means “metropolitan sewer district”; “ordinance” means “resolution”; “clerk” means “secretary-treasurer of district”; “governing body” means “metropolitan sewer district board”; and “mayor or chairman of board of directors” means “chairman of metropolitan sewer district board.” Bonds issued pursuant to this section are construction subdistrict bonds and obligations secured by assessments.
- (2) The provisions of subsection (1), permitting financing subdistrict construction under the provisions of KRS 107.010 to 107.220, shall not repeal or reduce any existing rights or duties of the district, but shall constitute an additional method of financing.

76.258 Financing by apportionment warrants

After the creation of a construction district under the provisions of KRS 76.241 to 76.246, the board may, if the board deem it feasible, instead of issuing bonds as provided in KRS 76.253, issue apportionment warrants, using the procedures after assessment set out in KRS 184.150 to 184.250, “road district” being read as “metropolitan sewer district,” “board of directors” being read as “metropolitan sewer district board” and the reference to roads being read as reference to sewers and drains including treatment plants.

76.259 Financing methods temporarily inadequate, procedure; contracts

- (1) If the district finds as a fact that the methods of financing sewer facilities within a construction subdistrict provided for in KRS 76.005 to 76.295 will be inadequate, uneconomic, or unduly burdensome to the residents to be initially served, the district may contract with one or more persons to construct or cause to be constructed a sewer system within the construction subdistrict or to advance or loan money to the district for the construction of a sewer system within the construction subdistrict. The sewer system constructed must either be conveyed to the district, acting for the construction subdistrict, and be a subdistrict facility, or provisions for the eventual conveyance of the system to the district, acting for the subdistrict, must be included in the contract. When the district finds that one or more financing methods for construction subdistricts established by KRS 76.005 to 76.295, excluding this section, have become feasible, the district may adopt such method or methods to raise the money to

pay for the construction of sewer facilities within the construction subdistrict or to pay the loan.

- (2) The contract may be made prior to the making of an order establishing the construction subdistrict. The contract may require that one (1) or more persons agree to buy construction subdistrict bonds to be issued pursuant to KRS 76.254 in an amount specified, which shall be sufficient to finance the construction of the sewer system. The maximum price and yield of the bonds shall be stated in the contract. Such contract shall not prevent the district from selling the bonds to a lower bidder.
- (3) All contracts made pursuant to this section shall be in writing and shall contain a covenant that this section shall prevail over any contrary feature of the contract.
- (4) The General Assembly declares that the public policy of the Commonwealth will not be offended merely because a contract or loan made pursuant to this section is privately negotiated or because it is made without competitive bidding.
- (5) Bonds sold to one (1) or more contracting parties pursuant to subsection (2) shall be indorsed to disclose the nature of the sale. Such bonds, no matter who the holder or owner, shall never be eligible to have any payment made on their account pursuant to subsection (6) of KRS 76.262.

76.261 Default on revenue bonds; trustee appointed; actions by trustee, receiver, powers

- (1) The holders in aggregate principal amount of twenty percent (20%) of any class of construction subdistrict bonds authorized by KRS 76.254 may ex parte move a judge of the Circuit Court of the county containing the construction subdistrict to appoint a trustee to represent all of the holders of the same class of bonds when the facts described in paragraph (b) of subsection (2) have occurred.
- (2) The judge shall appoint a trustee (which may be corporate) upon a showing that:
 - (a) Movants in fact are holders of twenty percent (20%) or more of the aggregate principal amount of the affected class of the bonds;
 - (b) Movants claim that there has been a default exceeding thirty (30) days in the payment of interest or principal on the bonds, that the district has failed to comply with the provisions of KRS 76.005 to 76.295 relating to construction subdistrict bonds, or that the district has breached a contract with the holders of the bonds; and
 - (c) Movants have filed in the office of the county clerk of the county containing the district an instrument in the nature of a notice of action against the district which instrument states that movants have applied to have a trustee appointed pursuant to this section and which names the affected construction subdistrict.
- (3) The trustee may, or upon written request of any twenty percent (20%) in aggregate principal amount of his bondholder beneficiaries shall, file an action in his name against the district; the action shall seek all remedies, including but not limited to mandamus, prohibition, judgment against a special fund or funds, injunction, and declaratory judgment, needed to preserve and enforce the rights of the bondholders. The action shall be filed in the Circuit Court of the county containing the district.
- (4) The rights of bondholders include, but are not limited to, the right to:
 - (a) Require the district to collect from the construction subdistrict rates, rentals, and charges adequate to pay principal and interest on the bonds;

- (b) Require the district to perform all lawful agreements with the bondholders;
 - (c) Require the district to account to the bondholders as if it were trustee of an express trust for their benefit;
 - (d) Have the district enjoined from doing any acts or things which may be unlawful or in violation of the rights of the bondholders;
 - (e) Have all bonds of the affected class declared due and payable.
- (5) Any trustee, whether or not all bonds have been declared due and payable, shall be entitled as of right, upon application to the Circuit Court, to the appointment of a receiver, who may enter upon and take possession of the construction subdistrict facilities, or any part thereof, and operate and maintain the same, and collect and receive all rentals, rates, other charges, and revenues of the construction subdistrict payable after commencement of the receivership. The receiver shall deposit such moneys in a separate account and apply them as the court directs. In any suit, action, or proceeding, by the trustee, the fees, counsel fees, and expenses of the trustee and of the receiver, if any, shall constitute disbursements taxable as costs. All costs and disbursements allowed by the court shall be a first charge on any revenue derived from the construction subdistrict facilities. Such trustee shall, in addition to the foregoing, have and possess all the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the bondholders in the enforcement and protection of their rights.

76.262 Rate schedule for construction subdistrict; notice; objections; purposes; subdistrict fund, uses

- (1) The district is authorized to establish a schedule of rates, rentals, and charges to be collected from all real property within a construction subdistrict served by construction subdistrict facilities. This schedule shall be in addition to the charge authorized by KRS 76.090. This schedule shall be determined for each construction subdistrict on the basis of one (1) or more of the factors stated in subsection (1) of KRS 76.090.
- (2) Before final adoption of such a schedule the district shall give notice of it pursuant to KRS Chapter 424. The first notice shall be dated as of the date of the first publication; that notice shall state that the proposed or revised schedule of rates, rentals, and charges will remain open for inspection in the office of the district for thirty (30) days from the date in the notice, and that any person claiming to be aggrieved by the proposed schedule may file written objections to it with the district. The district shall examine and hear any and all such objections, may modify the proposed schedule, and shall adopt and establish a final schedule within sixty (60) days after the date of the first notice.
- (3) Such schedule shall be established and revised from time to time so as to produce revenues for the construction subdistrict sufficient:
 - (a) For the payment of all construction subdistrict bonds and obligations except those payable from assessments;
 - (b) For the payment of all costs and expenses of operating and maintaining the construction subdistrict which expenses shall include, but not be limited to, an equitable portion of the wages, salaries, and fees of officers and employees of the district;

- (c) For the payment to the district of an amount which represents an equitable allocation of the cost of district facilities used, directly or indirectly, by the construction subdistrict if there is such a use;
 - (d) To meet all or part of reasonably foreseeable future need for trunk, main, connecting sewers and any other facilities necessary to link the construction subdistrict facilities to the district facilities or, where such linkage is not feasible, to link the construction subdistrict facilities to and dispose of the sewage in a treatment plant serving at least one (1) other construction subdistrict;
 - (e) For the payment of an equitable portion, not to exceed twice the amount required by paragraph (b), of any amount necessary to establish and maintain a fund created by subsection (6) and
 - (f) For the payment of all cost of renewals and replacements of construction subdistrict facilities.
- (4) Any and all portions of expenses, salaries, wages and fees necessary or incident to improvements for which bonds are issued may be paid from bond proceeds.
 - (5) The rates, rentals, and charges authorized by this section need not be the same for all real property within the construction subdistrict but may be based upon any reasonable classification.
 - (6) The district may create a fund for construction subdistrict purposes generally, which fund may be used from time to time at the discretion of the district's board for the purpose of financing sewerage and drainage studies, paying engineering costs, and defraying, in whole or in part, the cost of the construction or acquisition of sewerage and drainage facilities for any existing or proposed construction subdistricts.

76.263 Cut-off of water supply of user in construction subdistrict

The district is granted the same authority relative to the cutting off of the water supply of its delinquent users within a construction subdistrict as is contained in KRS 76.090 relative to other territory under the jurisdiction of the district. Delinquents include persons or users who have failed to make timely payment of any assessment authorized by KRS 76.005 to 76.295 or any payment required by KRS 76.262.

76.264 Operating and maintenance costs of subdistrict system, how paid

Sewer and drainage systems or both constructed by construction subdistricts shall be operated and maintained by the district and payment for the actual cost, including overhead and administrative costs, shall be paid by the districts from funds of the construction subdistricts. Where sewer system constructed by construction subdistricts are connected to the district facilities an equitable proportionate charge for treatment of sewage at the district sewage treatment plant or plants shall also be transferred from the accounts of the construction subdistrict to the district.

76.267 Property of district, bonds and income therefrom exempt from tax

The establishment, financing and operation of a construction subdistrict by the district are in all respects in the interest of public health and for a public purpose. In so doing the district performs a governmental function in the exercise of the powers conferred upon it, and it shall be required to pay no taxes or assessments upon any property owned or acquired by it, or upon its activities in the operation and maintenance of its subdistrict facilities. Construction subdistrict bonds and the income therefrom are exempt from taxation.

76.268 Annexation to subdistricts, procedure; effect

Annexation to subdistricts may be accomplished by any of the following procedures, as the board may elect:

- (1)
 - (a) After the creation of a construction subdistrict under the provisions of KRS 76.241 to 76.246, the board may, if it deems it advisable, use the authority and procedures granted to sanitation districts by KRS 220.535 to 220.537 to annex territory to a subdistrict, the words “board of directors” being read as “metropolitan sewer district board.”
 - (b) Language in KRS 220.535 limiting the powers of annexation to a sanitation district in a county not containing a city of the first class shall not be applicable to a metropolitan sewer district which might use this method of annexation to a construction subdistrict even if it is located in a county containing a city of the first class, and the secretary of the Energy and Environment Cabinet shall function in regard to annexation by it in the same manner and under the same procedures, as set out in KRS 220.535 to 220.537, as he would in his capacity as commissioner of sanitation districts for any sanitation district.
- (2) After the creation of a construction subdistrict under the provisions of KRS 76.241 to 76.246, the board may annex any area, contiguous or noncontiguous, subject to the limitations of KRS 76.242, to the construction subdistrict by making a preliminary order describing the area to be annexed and causing said order to be published pursuant to KRS Chapter 424. The notice so published shall state that objections in writing to the proposed annexation may be filed with the district within thirty (30) days of the date of said notice. The district shall examine and hear all such complaints. It may modify or amend the areas proposed to be annexed; and it shall make a final order, within sixty (60) days of the date of publication of said notice, describing the areas to be annexed and shall cause the same to be published, pursuant to KRS Chapter 424. A freeholder of land within the area proposed to be annexed may appeal such final order in the manner described in KRS 76.247. In referring to KRS 76.247, this section is not intended to provide for de novo trial.
- (3) In the event the owner or owners of all the property or properties proposed to be annexed to a construction subdistrict shall tender to the district their written request or requests that the district proceed immediately with the annexation of said property or properties, and shall unqualifiedly waive all formalities and substantive rights contained in subsection (2) of this section, the district may thereupon make and publish a final order annexing said property or properties to the construction subdistrict. Said order shall contain a recitation of the receiving of waivers from the owners of all properties to be annexed thereunder. Provided, however, that in all such instances the written request or requests of the owner or owners of all properties proposed to be annexed to a construction subdistrict shall be in recordable form and shall be recorded in the office of the county clerk of the county wherein the property is located; and said clerk is authorized to record such instruments as in the case of mortgages and may charge and receive fees therefor as in the case of mortgages.
- (4) The provisions of subsections (1), (2), and (3) of this section shall not repeal or reduce any existing rights or duties of metropolitan sewer districts, but shall constitute merely a procedure for annexation to construction subdistricts by a metropolitan sewer district.

76.269 Other districts to become construction subdistricts when; incorporated in district when

A sanitation district organized under KRS 220.010 to 220.540, a sewer construction district organized under KRS 76.300 to 76.420, and a sewage system owned by any municipality, political subdivision, or any other entity, public or private, may be made a construction subdistrict or incorporated into the district area by the board under the conditions of this section.

- (1) Any such district or system may be made a construction subdistrict only when:
 - (a) Express, written consent of all bondholders and secured creditors has been obtained;
 - (b) The governing body or owner of such district or system has consented in writing; and
 - (c) The board has determined that the policy of KRS 76.010 to 76.295 will best be served by making such district or system a construction subdistrict.
- (2) When such district or system has been made a construction subdistrict under subsection (1), KRS 76.241 to 76.253 and KRS 76.257 to 76.259 shall not apply to it.
- (3) Any such district or system may be incorporated by the board into the district area only when:
 - (a) All debts of the district or system have been paid or an amount of either money or securities lawful as investments under KRS 386.020 has been laid aside to pay them by the governing body or owner of such district or system;
 - (b) The governing body or owner of such district or system has consented in writing;
 - (c) Such district or system is not within a sanitation tax district organized under KRS 76.274; and
 - (d) The board has determined that the policy of KRS 76.010 to 76.210 will best be served by incorporating such district or system into the district area.

76.271 Winding up of construction subdistrict affairs, when, effect

The district shall wind up the affairs of a construction subdistrict and incorporate it into the district area only when:

- (1) The board finds that such action would best serve the policy of KRS 76.010 to 76.295.
- (2) There are not outstanding any bonds issued pursuant to subsection (2) of KRS 76.272 if the proceeds of such bond issue have been used, are being used, or will be used to construct trunk, main, or intercepting sewers which, directly or indirectly, connect the construction subdistrict to either the district facilities or to a treatment plant, disposal plant, or outlet sewer also serving, directly or indirectly, another construction subdistrict.
- (3) The construction subdistrict is not within a sanitation tax district organized under KRS 76.274.
- (4) The construction subdistrict has no outstanding obligations.
- (5) The construction subdistrict has paid for its equitably allocable share of the capital costs of, and is connected to, directly or indirectly either

- (a) The district facilities, or
 - (b) A treatment plant, disposal plant, or outfall sewer and any trunk, main, or intercepting sewers built to connect at least two (2) construction subdistricts to such treatment or disposal plant, or outfall sewer.
- (6) The provisions of this section shall not apply in cases involving annexation by a city of the first class pursuant to KRS 81.300 to 81.360.

76.272 Bonds of several construction subdistricts; purposes, effect

- (1) The district may issue for one or more construction subdistricts bonds to finance construction of trunk, main, connecting sewers and any other facilities necessary to which, directly or indirectly, connect one or more of such construction subdistricts to either the district facilities or to a treatment plant, disposal plant, or outfall sewer which also serves, directly or indirectly, at least one (1) other construction subdistrict. Such bonds may also be used to finance construction of a treatment plant, disposal plant, or outfall sewer of the type described in the preceding sentence.
- (2) Bonds issued pursuant to subsection (1) shall be construction subdistrict obligations for all construction subdistricts for which they are issued.
- (3) Except as provided in this section, bonds authorized by subsection (1) shall be governed by KRS 76.254 and 76.261. Such bonds shall be construction subdistrict bonds within the meaning of paragraph (a) of subsection (3) of KRS 76.262. They shall not be considered construction subdistrict bonds within the meaning of subsection (6) of KRS 76.262.

76.273 Revenue bonds alternate method of financing

The provisions of KRS 76.254, 76.256 and 76.272, providing for financing with revenue bonds, shall not repeal nor reduce any existing rights or duties of the district, but shall constitute an additional and alternate method of financing.

SANITATION TAX DISTRICTS

76.274 Sanitation tax district; creation, powers; area included

In the interest of the public health and for the purpose of providing adequate sanitation and drainage facilities in each county containing a city of the first class, there may be created and established therein one or more sanitation tax districts, under the provisions of KRS 76.005 to 76.295, having the powers, duties and functions prescribed in KRS 76.005 to 76.295, and to be known by and under the name of.... (name) sanitation tax district. Such a district under its name shall be a public body corporate and political subdivision, with power to adopt, use and alter at its pleasure a corporate seal, sue and be sued, contract and be contracted with, and in other ways to act as a natural person, within the purview of KRS 76.005 to 76.295. Such district may encompass any territory within the county except:

- (1) Territory in the district area of a metropolitan sewer district,
- (2) Sewered areas which are connected to the district facilities of a metropolitan sewer district, and

- (3) Sewered areas which have paid a capital investment recovery fee, or are paying the same, to a metropolitan sewer district to reimburse the metropolitan sewer district for that portion of its capital expenditures equitably allocable to the sewered area.

76.276 Resolution filed with county clerk, contents

Whenever by resolution of the fiscal court acting upon its own initiative or upon petition from the metropolitan sewer district, it is declared for the best interests of such county and the inhabitants thereof that such sanitation tax district or districts be created under the provisions of KRS 76.005 to 76.295, the fiscal court of such county shall file a certified copy of such resolution with the county clerk. The resolution shall describe the territory included within the sanitation tax district.

76.277 Board of sanitation tax district; members, appointment, tenure, removal, compensation; officers, employees

- (1) The affairs of each sanitation tax district shall be conducted by a board composed of five (5) members, all of whom shall be appointed by the county judge/executive of the county subject to the approval of the fiscal court. Not more than three (3) members of the board shall be affiliated with the same political party.
- (2) Each member shall be at least twenty-five (25) years of age and a resident of the county. No officer or employee of a city or county, whether holding a paid or unpaid position, shall be eligible for appointment as a member of the board.
- (3) On the first day of the first month which starts more than thirty (30) days after the creation of a sanitation tax district, or as soon thereafter as may be practical, the county judge/executive, subject to the approval of the fiscal court, shall appoint one (1) member for a term of two (2) years, two (2) members for a term of three (3) years, and two (2) members for a term of four (4) years. The first year of each term shall end on the first day of July which occurs at least six (6) months after the creation of the sanitation tax district. Upon the expiration of each of the terms and thereafter, the term of each member shall be four (4) years, ending on July first. A member is eligible to succeed himself, and shall continue in office until his successor has been appointed and qualified. Vacancies in the membership shall be filled for the unexpired portion of the term by the county judge/executive, subject to the approval of the fiscal court.
- (4) Any member of the board may be removed for cause, after hearing by the county judge/executive, and after at least ten (10) days' notice in writing has been given to the member. The notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the county judge/executive shall be final and removal results in vacancy in the office.
- (5) Each member of the board shall be paid ten dollars (\$10) for each meeting of the board attended by the member.
- (6) The board in accordance with its bylaws shall elect from its members a chairman and a vice chairman. It may employ a secretary-treasurer and other officers and employees as it deems requisite for the performance of its duties. The board may require those officers and employees as it determines to execute faithful performance bonds, in sums as fixed by the board. The premiums for the bonds shall be paid by the district.

76.2775 Compliance with KRS 65A.010 to 65A.090

The board shall comply with the provisions of KRS 65A.010 to 65A.090.

76.278 Ad valorem tax levy; notice; protesting petition; referendum; collection

- (1) In order to establish a comprehensive sewage and sewage treatment system, or storm water and surface drainage system, or both, within the sanitation tax district, the sanitation tax district through its board may levy an ad valorem tax upon the real property in the district, not exceeding limits designated by the Constitution of the Commonwealth. Provided, however, that notice stating the amount of the proposed tax and the area to be affected be published in a newspaper of bona fide circulation as provided in KRS 424.130. Provided, further, that no resolution of the board imposing an ad valorem tax shall go into effect until the expiration of thirty (30) days after the first publication of the notice. If during the thirty (30) days next following the first notice of said resolution, a petition signed by a number of constitutionally qualified voters equal to fifteen percent (15%) of the votes cast within the area affected at the last preceding general election, stating the residence of each signer, and verified as to signatures and residence by the affidavits of one (1) or more persons is presented to the county judge/executive protesting against passage of such resolution or if the fiscal court passes a resolution suspending the tax, the resolution shall be suspended from going into effect. The county judge/executive shall notify the board of the sanitation tax district of the receipt of the petition or of the suspension of the resolution or both. If the resolution is not repealed by the board, the board shall submit to the voters of the area to be taxed, at the next regularly-scheduled November election, the question as to whether the tax shall be levied. The question as it will appear on the ballot shall be filed with the county clerk not later than the second Tuesday in August preceding the regular election. The question shall be so framed that the voter may by his vote answer "for" or "against." If a majority of the votes cast upon the question oppose its passage, the resolution shall not go into effect. If a majority of the votes cast upon the question favor its passage, the resolution shall go into effect as of January 1 of the year succeeding the year in which the election is held.
- (2) When such tax levy has been fully approved, the property valuation administrator, with the cooperation of the board shall note on the tax rolls the taxpayers and valuation of the property subject to such tax. The county clerk shall compute the tax on the regular state and county tax bills in such manner as may be directed by regulation of the Department of Revenue.
- (3) Such ad valorem taxes shall be collected by the sheriff in accordance with the general law and accounted for to the board. The sheriff shall be entitled to a fee of one percent (1%) of the amount collected.

76.279 Lease of system constructed by metropolitan sewer district; renewals; revenue bonds of metropolitan district

- (1) In order to provide for the construction of a comprehensive sewage and sewage treatment system, or storm water and surface drainage system, or both, the sanitation tax district and a metropolitan sewer district may agree in writing that the latter shall construct the system and operate it in consideration that the sanitation tax district lease the system for a term of one (1) year, which term may be renewed. No such system shall include lateral sewers. It may include any other appliance or structure reasonably incident to such a system.
- (2) The sanitation tax district shall have an exclusive option to renew for each year succeeding the original term, but the option shall not grant exclusive renewal options for more than forty (40) years. The method of exercising the exclusive option to renew the lease shall be any method permissible under law which does not have the effect of authorizing or permitting the sanitation tax district to become

indebted to an amount exceeding, in any year, the income and revenue provided for such year within the meaning of Section 157 of the Constitution of Kentucky.

- (3) A metropolitan sewer district is authorized to issue bonds secured solely by rentals payable under such a lease to finance construction of the system. Except as provided in the preceding sentence, all matters pertaining to such bonds shall be governed by KRS 76.254 and 76.261.

SEWER CONSTRUCTION DISTRICTS

76.295 Certificate of noninterference by metropolitan sewer district required before petition for sewer construction district

In counties containing a metropolitan sewer district, the county judge/executive shall not accept for filing a petition tendered to it pursuant to KRS 76.300 to 76.305 unless the metropolitan sewer district has certified in a written instrument that the proposed sewer construction district will not interfere with the orderly operation and expansion of the metropolitan sewer district. The Circuit Court of any county containing a metropolitan sewer district shall have jurisdiction to compel by injunction the issuing of such a certificate if its issuance has been denied arbitrarily, capriciously, or unreasonably.

76.300 Petition for establishment of sewer construction district

The county judge/executive of any county in which a metropolitan sewer district has been established, upon petition of twenty-five percent (25%) of the resident freeholders therein may establish a sewer construction district for the purpose of providing sewers and/or drainage facilities to serve the district. The petition shall describe the territory intended to be included in the district, and the sewer and drainage conditions and facilities existing in this territory.

76.305 Notice and proceedings for establishment of sewer construction district; appeal

- (1) When the petition is filed the county clerk shall give notice of the filing by publication pursuant to KRS Chapter 424 and by posting notices in three (3) public places within the proposed district. Within thirty (30) days after the publication, any freeholder of the proposed district may file objections, and the county judge/executive shall set the case for hearing at the first rule day after expiration of said thirty (30) days. If the county judge/executive finds that the establishment of such district is reasonably necessary for the public health, convenience and comfort of the residents of the district, he shall make an order establishing the district and designating it by name and number.
- (2) If the county judge/executive finds that the district is not necessary, he may dismiss the petition. If the county judge/executive finds that any part of the territory will not be benefited, he may strike such part.
- (3) Any party may appeal to the Circuit Court from the order establishing a district or dismissing the petition or striking or refusing to strike any territory from the district. From a decision of the Circuit Court any party may appeal to the Court of Appeals.

76.310 City or metropolitan sewer district not included in sewer construction district without consent

The district shall not include the whole or any part of any incorporated city or any metropolitan sewer district except with the consent of the legislative or managing board of the city or district. With such consent, the resident property owners of the city or district will be considered as individual freeholders within the sewer construction district.

76.315 Sewer construction district commissioners; appointment, terms, removal; officers

- (1) If the county judge/executive orders such district established, the county judge/executive shall, with the approval of the fiscal court, appoint three (3) commissioners, from among the residents of the sewer construction district. One (1) of the commissioners shall be appointed for a term of two (2) years, one (1) for a term of three (3) years and one (1) for a term of four (4) years from the date of first appointment. Upon expiration of the term of office of each of these commissioners, the county judge/executive shall, with the approval of the fiscal court, appoint a commissioner to succeed him, to serve for a term of four (4) years. The commissioners shall elect a chairman, a secretary and a treasurer.
- (2) A commissioner may be removed from office as provided by KRS 65.007.

76.320 Corporate powers of commission

The commission thereby created shall be the governing body of the sewer construction district and shall be a body corporate, with power to contract and be contracted with, to sue and be sued and to adopt a corporate seal.

76.325 Powers of commission

The powers of the commission shall be:

- (1) To construct, operate and maintain a sewerage and/or drainage system and sewers and drains within the boundaries of the sewer construction district, or to contract with a metropolitan sewer district for such construction, operation and/or maintenance;
- (2) To provide for disposition of the sewage and/or drainage, and for treatment of sewage, either through its own facilities or by contract with the metropolitan sewer district;
- (3) To clean out, straighten, alter, deepen, fill up or otherwise improve any stream, watercourse receiving sewage, liquid wastes or drainage, located in or out of the district;
- (4) To construct, operate and maintain trunk sewers, intercepting sewers, laterals, siphons, pumping stations, sewage treatment and disposal works necessary for the purposes of the district, through its own facilities or by contract with the metropolitan sewer district;
- (5) To hold, control, acquire by purchase, donation or condemnation any real or personal property necessary for location, construction, operation or maintenance of its works and improvements and easements for rights of way;
- (6) Upon completion of construction of any integral part of the sewer or drainage system, to contract for the operation and maintenance of its works and improvements or easements for rights of way;

- (7) Upon completion of construction of any integral part of the sewer or drainage system, to contract for the operation and maintenance of, and extensions to, such part of the system, with the metropolitan sewer district on a service basis for the users, or, with the approval of the court, to have the territory in such part of the sewer construction district incorporated into the metropolitan sewer district for service as provided to other property within said metropolitan sewer district; and
- (8) To enter into agreements with another entity or entities to acquire by purchase or lease, any real or personal property, or any interest, right, easement, or privilege therein, outside of the district's jurisdictional boundaries, in connection with the acquisition, construction, operation, repair, or maintenance of any sewage, wastewater, or storm water facilities, notwithstanding any other provision of the Kentucky Revised Statutes restricting, qualifying, or limiting their authority to do so, except as set forth in KRS Chapter 278.

76.326 Compliance with KRS 65A.010 to 65A.090

The board shall comply with the provisions of KRS 65A.010 to 65A.090.

76.330 Commission to make survey and report to county judge/executive of economic feasibility of construction; certification by metropolitan district

The commission shall, before entering upon any construction work or any contracts therefor, make a survey of the territory within the district, and report to the county judge/executive as to plans for sewer and/or drainage construction and as to the estimated cost thereof, with recommendations as to whether or not such construction is economically feasible. With such report shall be submitted a report and certification from the metropolitan sewer district as to whether or not the project is feasible from a technical and economic standpoint.

76.335 Notice and hearing of exceptions

When the report is filed, the clerk shall, within five (5) days, cause notice of the filing of the report to be given by publication pursuant to KRS Chapter 424 and by notices posted in three (3) public places within the sewer construction district. The hearing shall be held not more than twenty (20) days from the first published notice. Property owners may file exceptions to said report at any time up to the day the proceeding is docketed. The county judge/executive may hear the proceeding on that day, unless further time be required.

76.340 Classification and report of land affected or benefited by sewer construction and operation

If a plan for construction of sewers and/or drains is approved by the county judge/executive, the commissioners shall then examine the real estate in the sewer construction district that may be affected or benefited by construction and operation of such sewers or drains included in such approved plans, and shall classify the land into such number of classes as the commission deems advisable, and shall report its classification and the ratio of benefits for each class, from such sewers or drains to be constructed. This report as to classification shall include a general description of the land in each class with the names of the owners.

76.345 Notice and hearing of exceptions to classification report

When this report of classification of benefits is filed, the clerk shall, within five (5) days, cause notice of the filing of same to be given by publication pursuant to KRS Chapter 424, and by notices posted in three (3) public places within the sewer construction district. The hearing shall be held not more than twenty (20) days from the first published notice. Property owners may file exceptions to said report at any time up to the day the proceeding is docketed. The county judge/executive may hear the proceeding on that day, unless further time be required.

76.350 Appeals

An order of the county judge/executive confirming, modifying or disapproving a report of commissioners of sewer construction district as to a plan of construction or as to classification of property or ratio of benefits may be appealed to the Circuit Court by the commission or any property holder. In the Circuit Court the appeal shall be docketed on the equity docket and the trial shall be de novo. Decisions of the Circuit Court may be appealed to the Court of Appeals.

76.355 Performance under plan

When the classification and ratio between classes on any specific plan, has been finally determined, the commission may carry out the plan itself, or contract for construction of said sewers and/or drains included in the plan by the metropolitan sewer district or otherwise.

76.360 Assessment of benefited property; lien of assessment; payment

When the cost of construction of the planned sewers and/or drains has been ascertained, the commission shall assess the property benefited in accordance with the classification and area or other basis previously determined. From that date the assessment shall constitute a lien against the property. The landowner may pay the assessment in full at any time within thirty (30) days after notice of assessment. Every property owner not paying the full amount of his assessment within thirty (30) days shall be presumed to have consented to the issuing of sewer construction bonds.

76.365 Issuance of sewer construction bonds for amount of unpaid assessments; interest, maturity, payment

- (1) If all assessments are not paid in full by thirty (30) days after notice of assessment, the commission may issue bonds for the amount of the unpaid assessments, and shall give notice that it proposes to issue bonds, giving the amount of bonds to be issued, and the time they will become payable.
- (2) At the expiration of thirty (30) days after the publication, the commission may divide the unpaid assessments into not less than ten (10) annual installments, which shall draw interest at the rate or rates or method of determining rates as the commission deems best and be payable at least annually, from thirty (30) days after the date of publication. The bonds shall mature in series to correspond with the installments into which the unpaid assessments are divided, and shall draw interest at the rate or rates or method of determining rates as the commission determines, be payable at least annually, and be payable at some place to be designated by the commission. The bonds shall be for the exclusive use and benefit of the sewer construction and shall designate on the face the name of the district and the purpose for which they were issued.
- (3) The commission, in dividing the unpaid assessments into installments, shall fix the time for payment, and each landowner shall pay the installments due on his land, with interest due on that installment and

deferred installments, to the treasurer of the commission on or before the time fixed by the commission for the maturity of the installment.

- (4) Enforcement of payment of assessment and interest shall be by suit.

76.366 Financing by revenue bonds

- (1) Any sewer construction district created in the manner provided in KRS 76.300 to 76.325, both inclusive, may if the commissioners of such sewer construction district deem it feasible, build, or acquire or enlarge sewer or drainage facilities, including treatment plants, without resort to the right to levy assessments for the cost of such sewer or drainage facilities, including treatment plants, as is provided in KRS 76.340 to 76.365, both inclusive, and may obtain the funds with which to build, acquire or enlarge such system by the issuance of revenue bonds, payable solely from the revenue to be derived from the operation of such system.
- (2) In the event the commissioners shall decide to finance the cost of such construction, acquisition or enlargement by the issuance of revenue bonds, secured solely by the revenue of the system, the commission shall note such decision by appropriate resolution, and shall thereafter proceed under the provisions of KRS 96.350 to 96.510, both inclusive, and the sewer construction district and the commission shall have the same powers and duties as a city with a population less than one hundred thousand (100,000) based upon the most recent federal decennial census inclusive under the provisions of KRS 96.350 to 96.510, both inclusive, the language referring to waterworks and water systems in KRS 96.350 to 96.510 to be read as sewers and drains including treatment plants.
- (3) In the event such procedure is followed the commission shall not observe the provisions of KRS 76.340 to 76.365 both inclusive.

76.367 Refunding with revenue bonds

If any district has previously issued bonds secured entirely or partially by the right to levy an assessment as provided by KRS 76.340 to 76.365, both inclusive, and such bonds are redeemed prior to maturity, bonds to refund same may be issued secured solely by the revenue of said systems in the manner provided in KRS 76.366.

76.368 Power to discontinue water service

In the event a sewer construction district elects to proceed under KRS 76.366 and 76.367 it is granted the same authority relative to the cutting off of the water supply of its delinquent users as is a sanitation district under KRS 220.510, when written request for such cutting off is made by the commission to the water supplier. In the event this power is used the plans of the sewer district shall only require prior approval by the metropolitan sewer district as already provided in KRS 76.330, and in such event the water supplier may require the sewer commission to supply an agent with full authority to receive payments or accept arrangements to pay the delinquent charges, together with interest and penalties thereon, to be present when the water is cut off and the water supplier may bill the sewer commission its actual expenses involved.

76.369 Effect of provisions for financing with revenue bonds

KRS 76.366 and 76.367 shall not repeal nor reduce any existing rights or duties of a sewer construction district, and the commissioners thereof, but shall constitute an additional and alternate method of financing.

76.370 Dissolution of district

On completion of collection of assessments, distribution of funds and retirement of all bonds, a sewer construction district may be dissolved by order of the county judge/executive.

76.375 Bond of commissioners and treasurer

The commissioners shall give bond in such amount as the county judge/executive may require. The treasurer shall give bond in such amount as the commission may require.

76.380 Governmental nature of commission's function

The creation of a sewer construction district, and the carrying out of its corporate purposes are in all respects in the interest of public health and for a public purpose. A sewer construction district performs a governmental function in the exercise of the powers conferred upon it, and it shall be required to pay no taxes or assessments upon any property owned or acquired by it, or upon its activities in the operation and maintenance of its facilities. Bonds issued by a sewer construction district and income therefrom are exempt from taxation.

76.385 County attorney to represent commission; additional counsel

The county attorney shall represent the commission, but the commission may employ additional counsel when the amount of its legal work requires this.

76.390 Additional or alternate method of financing construction

Any sewer construction district created in the manner provided in KRS 76.300 to 76.325 may, if the commissioners of such district deem it advisable, use the authority and procedures granted to incorporated municipalities by KRS 107.010 to 107.220. When applied to sewer construction districts, terms used in KRS 107.010 to 107.220 shall be construed to mean the following: "city" means "district"; "ordinance" means "resolution"; "clerk" means "secretary of district"; "governing body" means "district commissioners"; "mayor or chairman of board of directors" means "chairman of the district."

76.395 Construction of KRS 76.390

The provisions of KRS 76.390 shall not repeal or reduce any existing rights or duties of sewer construction districts or the commissioners thereof, but shall constitute an additional method of financing which may be used in conjunction with KRS 76.300 to 76.385, or may be an alternate method.

76.400 Exemption from KRS 76.085; exception

Any sewer construction district created in the manner provided in KRS 76.300 to 76.325 is exempt from the provisions of KRS 76.085, subsections (2) and (3), except when said sewer construction district empties its effluent into mains or plants operated by metropolitan sewer district.

76.405 Alternate method of annexation

Any sewer construction district created in the manner provided in KRS 76.300 to 76.325 may, if the commissioners of such district deem it advisable, use the authority and procedures granted to sanitation districts by KRS 220.535 to 220.537 to annex territory to the district, "board of directors" being read as "commission."

76.410 Exception to limitation of KRS 220.535

Language in KRS 220.535, limiting the powers of annexation to a sanitation district in a county not containing a city of the first class, shall not be applicable to sewer construction districts which may use this method of annexation, even if they are located in a county containing a city of the first class, and the secretary of the Energy and Environment Cabinet shall function in regard to annexations by them in the same manner and under the same procedures as set out in KRS 220.535 to 220.537 as he would in his capacity as commissioner of sanitation districts for any sanitation district.

76.415 Effect of KRS 76.405 and 76.410

The provisions of KRS 76.405 and 76.410 shall not repeal or reduce any existing rights or duties of sewer construction districts or commissioners thereof, but shall constitute merely a procedure for annexation by sewer construction districts.

76.420 Apportionment warrants; effect of section

- (1) Any sewer construction district created in the manner provided in KRS 76.300 to 76.400 may, if the commissioners of such district deem it feasible, instead of issuing bonds as provided in KRS 76.365, issue apportionment warrants, using the procedures after assessment set out in KRS 184.150 to 184.250, “board of directors” being read as “commission” and the references to roads being read as references to sewers and drains, including treatment plants.
- (2) In the event a sewer construction district uses the financing procedures of this section or those set forth in KRS 76.365 and 76.390, it shall have the same power to discontinue water service as is set out in KRS 76.368 for districts proceeding under KRS 76.366 and 76.367.
- (3) The provisions of subsections (1) and (2) of this section shall not repeal or reduce any existing rights or duties of sewer construction districts or the commissioners thereof, but shall constitute an additional method of financing which may be used in conjunction with KRS 76.300 to 76.385, or may be an alternate method.

WASTEWATER COLLECTION PROJECTS

76.600 Authority to provide for, construct and finance wastewater collection projects

Existing metropolitan sewer districts created pursuant to the provisions of KRS 76.010 to 76.210 may provide for, construct, and finance wastewater collection projects according to the financing plan set forth in KRS Chapters 76 and 107. This authority is in addition to any authority otherwise conferred upon any metropolitan sewer district. If any metropolitan sewer district has undertaken any proceedings under any other law to construct a project, it may abandon such proceedings and proceed under the provisions of KRS Chapters 76 and 107. It is the purpose of KRS Chapters 76 and 107 to extend permissive authority to metropolitan sewer districts to finance wastewater collection projects according to the assessed value basis, whereby benefited properties shall be assessed the cost of such projects according to benefits conferred upon such properties.

76.610 Use of authority and procedures granted municipalities; terms in KRS Chapter 107 defined

Any metropolitan sewer district created in the manner provided in this chapter may, if the board of such district deems it advisable, use the authority and procedures granted to incorporated municipalities by KRS 107.010 to 107.220. When applied to metropolitan sewer districts, terms used in KRS 107.010 to 107.220 shall be construed to mean the following: “city” or “municipality” means “metropolitan sewer district” (except that in KRS 107.090(1)(d), 107.130, 107.140(2)(a) and (c), and 107.150 referring to city taxes the term “city” shall continue to mean “city”); “ordinance” means “resolution”; “clerk” means “secretary of the metropolitan sewer district”; and “mayor or chairman of the board of directors” means “chairman of board of the metropolitan sewer district.”

76.620 Approval required

In undertaking wastewater collection projects under KRS Chapters 76 and 107, metropolitan sewer districts are vested with exclusive authority to plan, design, initiate, finance, and carry out construction of the projects solely according to the requirements and procedures of KRS Chapters 76 and 107. However, no project may be financed, no bonds may be issued, nor benefited property assessed for benefits conferred until the project has been approved by the fiscal court of the county of the affected district. In the event any benefited property is situated within a city of the first class encompassed by the district, the project shall also be approved by ordinance enacted by the governing body of that city.

76.630 Removal or relocation of municipal, municipally-owned utility or water district service equipment or appliances

The provisions of KRS 76.120 notwithstanding, whenever any district shall determine that it is necessary that any fire plugs, water pipes, mains, and conduits, and other water service related equipment and appliances, belonging to any municipality or a municipally-owned utility, or any water district established pursuant to KRS Chapter 74, must be removed or relocated on, over or under a highway, city street, county road, or other public way, in order to construct, reconstruct, relocate or improve a drainage ditch, storm sewer, sanitary sewer, or any drainage or sewage facility connected therewith, the municipality or municipally-owned utility or the water district shall relocate or remove same in accordance with the reasonable needs of the metropolitan sewer district; and the costs and expenses of such relocation or removal, including the costs of installing such facilities in a new location and the costs of any land, or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal, shall be ascertained and paid by the district as a part of the cost of improving, constructing or reconstructing such drainage or sewage facilities, provided such additional costs to the district do not result in an increase in the assessment against the benefited properties.

76.640 Enforcement powers

(1) Any metropolitan sewer district which has initiated a wastewater collection project under the provisions of KRS Chapters 76 and 107 may enforce payment of annual improvement benefit assessments levied in respect of such project and may enforce rules and regulations relative to this project by directing the company or governmental unit providing water services to any benefited property to discontinue water services until: (a) the improvement benefits and penalties are duly paid and (b) the regulations and rules shall have been duly complied with and any defaults have been cured. However, a metropolitan sewer district shall indemnify the company or governmental unit providing water services from any liability for damages for terminating water services upon the direction of a district.



KENTUCKY LEAGUE OF CITIES

MUNICIPAL LAW

(2) Water suppliers shall be entitled to collect from owners of benefited properties a reasonable fee for termination and reinstatement of water services.

(3) It shall be lawful for metropolitan sewer districts initiating wastewater collection projects to covenant with holders of bonds that the district shall enforce the provisions of this section.

(4) Notwithstanding the foregoing provisions of this section, metropolitan sewer districts initiating projects pursuant to KRS Chapters 76 and 107 shall have all powers and rights granted to cities and sewer bodies by KRS 96.930 through 96.943.