

RIVERPORT AUTHORITY

A GUIDE FROM KLC MUNICIPAL LAW

April 2021



Kentucky League of Cities (KLC)
100 East Vine Street, Suite 800
Lexington, KY 40507
Phone: 800.876.4552 (toll-free)
Fax: 859.977.3703
www.klc.org





RIVERPORT AUTHORITY

In order to play any game, you must first learn the rules. The same holds true for the law surrounding riverport authorities. It is impossible to carry out the duties of riverport authorities 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 riverport authorities.

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 riverport authorities will pop up. Failing that, you can always call the KLC Municipal Law Department at 800.876.4552.

The KLC Municipal Law Team

65.510 Definitions for KRS 65.510 to 65.650

As used in KRS 65.510 to 65.650, unless the context otherwise requires:

- (1) “Riverport authority” or “authority” means an authority established as provided in KRS 65.510 to 65.650;
- (2) “Riverport facilities” includes land, wharves, landings, buildings, equipment, and other improvements and appurtenances necessary or proper for the establishment, maintenance, operation, and expansion of riverports;
- (3) “Governmental unit” means a city or a county;
- (4) “Person” means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof;
- (5) “Industrial park” includes land which is held, owned, or optioned for present or future industrial or commercial development; and
- (6) “Economic environs” means the political boundaries of the governmental units establishing a riverport authority.

65.520 Establishment; general powers; cabinet’s oversight responsibilities

- (1) Any governmental unit by act of its legislative body, or any two (2) or more governmental units acting jointly by acts of their legislative bodies, and with the approval of the Transportation Cabinet, Office of the Secretary, may establish a developmental riverport authority to be composed of six (6) members.
- (2) The authority shall be a body politic and corporate with the usual corporate attributes, and in its corporate name may sue and be sued, contract and be contracted with and do all things reasonable or necessary to effectively carry out the powers and duties prescribed by KRS 65.510 to 65.650. The authority may exercise all powers granted to governmental agencies by KRS 58.010 to 58.140. The authority may exercise all powers, consistent with its powers and duties stated in this chapter, granted by KRS 273.171 to corporations governed by KRS 273.161 to 273.390.
- (3) The responsibility for riverports shall be established within the Transportation Cabinet to provide oversight on development activities involving riverport authorities. The cabinet shall be responsible for managing a study that will develop a long-range capital improvements plan for Kentucky’s riverports that shall include, but not be limited to:
 - (a) Guidelines for ground transportation access to riverports;
 - (b) A model for determining the economic impact of riverports; and
 - (c) A blueprint for creating long-term funding mechanisms for riverports.

65.530 Purpose, duties, and powers of riverport authority

- (1) The purposes of the authority shall be to establish, maintain, operate, and expand necessary and proper riverport and river navigation facilities, and to acquire and develop property, or rights therein within the economic environs, the home county, or any county adjacent thereto, of the riverport or proposed riverport to attract directly or indirectly river-oriented industry. It shall have the duty and such powers as may be necessary or desirable to promote and develop navigation, river transportation, riverports, and riverport facilities, and to attract industrial or commercial operations to the property held as industrial parks.
- (2) The authority shall establish and fix reasonable rates, charges, and fees for the use of the riverport facilities which shall be published in a newspaper of general circulation in the county in which the riverport is located. In fixing rates, charges, or fees the authority may take into consideration, among other factors, the total capital investment of the authority, the revenue needed properly to maintain such facilities, the revenue needed properly to expand the riverport and its facilities, the portion of the facilities utilized by the licensee or contracting party and its customers, and the volume and type of business conducted. Any party aggrieved by the rates, charges, or fees may appeal from the action of the authority to the Circuit Court of the county within which the authority operates, within ninety (90) days from the date that the authority finally publishes the rates, charges, or fees and gives notice of same to the contracting party or licensee. The Circuit Court may hear evidence and determine whether or not the rates, charges, or fees are, or are not, reasonable in amount. Appeal from the judgment of the Circuit Court may be prosecuted as any other civil appeal.
- (3) The authority shall also have power, from time to time, to fix rates, charges, or fees by contract, or by publishing general rates, charges, or fees for commercial vendors, concessionaires, or other persons for the use or occupancy of riverport facilities under the terms and conditions it deems to be in the best interest of maintaining, operating, or expanding necessary riverport facilities, and the public use thereof.
- (4) The authority may acquire by contract, lease, purchase, option, gift, condemnation, or otherwise any real or personal property, or rights therein, necessary or suitable for establishing, developing, operating, or expanding riverports, riverport facilities, water navigation facilities, including spoilage areas for the disposal of materials dredged from river bottoms in an effort to improve the navigability of rivers, reserve storage areas and reserves of bulk materials utilized by the authority or any person acting as the authority's agent or licensee, and industrial parks or sites within the economic environs of the riverport or proposed riverport. The authority may erect, equip, operate, and maintain on the property buildings and equipment necessary and proper for riverport and water navigation facilities. The authority may dispose of any real or personal property, or rights therein, which in the opinion of the authority is not needed for use as riverport or water navigation facilities, or use as industrial parks or sites. The authority may lease, sell, convey, or assign its interest in land owned, optioned, or otherwise held by it to any person for the purpose of constructing and/or operating any industrial or commercial facility or for the purpose of acting as the authority's agent or licensee in effectively carrying out any of its powers and duties.
- (5) With the consent of the legislative body of the governmental unit in which the property to be condemned is located, the authority may by resolution, reciting that the property cannot be acquired by purchase or agreement and is needed for riverport, water navigation, or industrial purposes in accordance with the powers set forth in subsection (4) of this section, direct the condemnation of any property. The procedure for condemnation shall conform to the procedure set out in the Eminent Domain Act of Kentucky.

- (6) The authority may apply for, receive authorization for, establish, and operate a foreign trade zone, as permitted by 19 U.S.C. sec. 81, provided approval is obtained from the Cabinet for Economic Development.
- (7) The authority shall comply with the provisions of KRS 65A.010 to 65A.090.

65.540 Members of authority; appointment, terms; removal; effect of compact

- (1) The members of the authority shall be appointed as follows:
 - (a) If the authority is established by a city, such members shall be appointed by the mayor of the city;
 - (b) If the authority is established by a county, such members shall be appointed by the county judge/executive with the approval of the fiscal court;
 - (c) If the authority is established as a joint city-county riverport authority, three (3) members shall be appointed by the mayor and three (3) members by the county judge/executive to the terms as provided in subsection (2) of this section, and in addition, the mayor may appoint himself or a member of the city legislative body as one (1) additional member of the authority and the county judge/executive may appoint himself or a member of the fiscal court as one (1) additional member of the authority for a term of two (2) years, provided that such persons may not serve on the authority after the expiration of their terms as an elected official;
 - (d) If a combination of cities and/or counties establishes a joint riverport authority, the mayors and/or county judges/executive involved shall jointly choose six (6) members to the terms as provided in subsection (2) of this section, and shall jointly choose successors and may upon agreement appoint a mayor or a member of a city legislative body and a county judge/executive or a member of a fiscal court as two (2) additional members of the authority for terms of two (2) years, provided that such persons may not serve on the authority after the expiration of their terms as an elected official.
- (2) Except as provided in subsection (1)(c) and (d) of this section, members of the authority shall serve for a term of four (4) years each, and until their successors are appointed and qualified, provided, however, that initial appointments shall be made so that two (2) members are appointed for two (2) years, two (2) members for three (3) years, and two (2) members for four (4) years. Upon expiration of these staggered terms, successors shall be appointed for a term of four (4) years.
- (3) A riverport authority member may be replaced by the appointing authority for inefficiency, neglect of duty, malfeasance, or conflict of interest. The appointing authority shall submit a written statement to the riverport authority setting forth the reasons for removal, and the statement shall be read at the next authority meeting, which shall be open to the general public. The member so removed shall have the right of appeal in the Circuit Court. Except as provided in subsection (1)(c) and (d) of this section no riverport authority member shall hold any official office with the appointing authority.
- (4) Notwithstanding subsection (2) 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 authority shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, the county judge/executive with the approval of the fiscal court shall adjust the terms of the sitting members so that one-third (1/3) of the terms expire in one (1) year, one-third (1/3) expire in two (2) years, and one-third (1/3) expire in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years. 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 authority shall be appointed by the mayor of the consolidated local government for a term of three (3) years pursuant to the provisions of KRS 67C.139. Incumbent members upon the establishment of the consolidated local government shall continue to serve as members of the authority for the time remaining on their current terms of appointment.

65.550 Withdrawal of city or county; successors; agreed dissolution

- (1) In the event that a joint riverport authority is created by cities and/or counties, and thereafter a city or cities or county or counties desire to withdraw from participation, then the remaining participants may jointly choose a successor member or members of the authority. No such withdrawing city or cities or county or counties shall be entitled to the return of any money or property advanced such authority.
- (2) Notwithstanding the provisions of subsection (1), any cities and/or counties which have established a joint riverport authority as provided for herein, may provide by a mutual written agreement between such cities and/or counties, and the joint riverport authority, that such joint riverport authority may be dissolved and may further provide that upon such complete termination, all funds, property and other assets held by the joint riverport authority shall be returned to such cities and/or counties in the same proportion as contributions of funds, property and other assets were made by such cities and/or counties. This section shall not apply and no dissolution shall be made until such time as all legal obligations of the joint riverport authority shall be satisfied and all existing commitments fulfilled.

65.560 Meetings of authority; quorum; effect of tie vote

A quorum for the transacting of the business of the authority shall consist of four (4) members for a six (6) member authority and five (5) members for an eight (8) member authority. Meetings of the authority may be called by the chairman or by four (4) members for a six (6) member authority and five (5) members for an eight (8) member authority. In case of tie voting by the authority, the issue shall be deemed to have failed passage.

65.570 Compensation of members; employees; duties of secretary-treasurer; effect of compact

- (1) Members of the authority shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred by them in the conduct of the affairs of the authority. The authority shall, upon the appointment of its members, organize and elect officers. The authority shall choose a chairman and vice chairman who shall serve for terms of one (1) year. The authority may fix a salary for the secretary-treasurer, and the secretary-treasurer shall execute an official bond to be set and approved by the authority, and the cost thereof shall be paid by the authority.
- (2) The authority may employ or retain necessary counsel, agents, employees, or other persons to carry out its purposes, work, and functions and may prescribe such rules and regulations as it deems necessary.
- (3) The secretary-treasurer shall keep the minutes of all meetings of the authority and shall also keep a set of books showing the receipts and expenditures of the authority. He shall preserve on file duplicate vouchers for all expenditures and shall present to the authority, upon request, complete reports of all financial transactions and the financial condition of the authority. Such books and vouchers shall at all times be subject to examination by the legislative body or bodies by whom the authority was created. He shall transmit at least once annually a detailed report of all acts and doings of the authority to the legislative body or bodies by whom the authority was created.

- (4) Notwithstanding subsection (1) 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 secretary-treasurer or executive director, as the case may be, shall be appointed by and serve at the pleasure of the county judge/ executive with the approval of the fiscal court as provided in KRS 67.040; fiscal court shall fix the salary. 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, the secretary-treasurer or executive director, as the case may be, shall be appointed by and shall serve at the pleasure of the mayor.

65.580 City or county may appropriate funds or levy tax for use of riverport authority

In order to provide money for the costs of administration, operation, maintenance, and development and for the purchase, lease, option, or holding of property, or rights therein, necessary or proper for the purposes contemplated in KRS 65.510 to 65.650, the legislative body of any governmental unit creating the riverport authority under KRS 65.510 to 65.650 may annually appropriate funds to the authority; or such governmental unit may make an annual levy to collect a tax on taxable property situated in the governmental unit for such riverport development. Any appropriation shall be made by the legislative body in such amounts, in such proportion and upon such terms as the legislative body may determine. All funds derived from such appropriation or tax shall be turned over to the riverport authority for the purpose of carrying out the duties and powers of the authority.

65.590 Riverport authority may borrow money, how secured

The authority may borrow money from any source on its own credit in anticipation of revenue to be derived from taxes, appropriations or other income, and for such purposes the authority may pledge the taxes, appropriations or income anticipated. The authority may pledge its assets, including, but not by way of limitation, real or personal property held for the purposes contemplated in KRS 65.510 to 65.650, as security for moneys borrowed.

65.600 Revenue bonds issued, when

The authority is authorized to defray the cost of acquiring any real or personal property for the purposes contemplated in KRS 65.510 to 65.650 through the issuance of revenue bonds, and for that purpose the authority shall have all the powers and duties that are granted to or imposed upon governmental units by law.

65.610 Contracts for use of facilities; maintenance costs, how paid

- (1) The authority may contract with any person or governmental agency for the use of the riverport and riverport facilities. Such contract shall not prevent, restrict or hamper the general use of the riverport by the public.
- (2) All unpledged or surplus revenue derived from the use of the riverport and the riverport facilities shall be first applied to the maintenance of the riverport and the riverport facilities. A governmental unit may expend funds for this purpose out of its general funds or any other available funds.

65.620 Title to property; tax exemptions

The title to all property acquired by the authority shall vest in the authority and all such property shall be exempt from taxation to the same extent as other property used for public purposes. All revenue of the authority shall also be exempt from taxation.

65.630 Exercise of powers declared public function; property held for public purpose

The exercise of any power granted to a riverport authority in KRS 65.510 to 65.650 is hereby declared to be a public function, exercised for a public purpose, and as a matter of public necessity, and any real or personal property, or rights therein, acquired by a riverport authority and used in the manner and for the purposes enumerated in KRS 65.510 to 65.650 is hereby declared to be acquired and used for public purposes and as a matter of public necessity.

65.640 Authority may indemnify the United States for damages resulting from improvements

Any riverport authority created pursuant to KRS 65.510 to 65.650 may indemnify the United States against any claims for damages, and any damage, that may result by overflow of the river from its being improved by the United States.

65.650 Commitments of authority to the United States to improve navigability

- (1) Any riverport authority created pursuant to KRS 65.510 to 65.650 may make commitments to the United States to provide certain specific minimum facilities and to provide spoilage areas when such commitments are necessary to obtain the assistance of the United States in improving the navigability of any river.
- (2) Any such commitments made pursuant to this section shall be with the approval of the appointing authority.