

KRS Chapter 74

Water Districts

Water Districts

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74.010 Creation of a water district.

Subject to the provisions of KRS 74.012 a fiscal court may create a water district in accordance with the procedures of KRS 65.810.

Effective: July 13, 1984

History: Amended 1984 Ky. Acts ch. 64, sec. 10, effective July 13, 1984. -- Amended 1978 Ky. Acts ch. 384, sec. 179, effective June 17, 1978. -- Amended 1968 Ky. Acts ch. 200, sec. 1. -- Amended 1966 Ky. Acts ch. 70, sec. 2; and ch. 239, sec. 20. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-1.

74.012 Water district -- Creation -- Application to Public Service Commission -- Hearing -- Conditions.

- (1) Prior to the establishment of any water district as provided by KRS 74.010, and prior to the incorporation or formation of any nonprofit corporation, association or cooperative corporation having as its purpose the furnishing of a public water supply (herein referred to as a "water association"), a committee of not less than five (5) resident freeholders of the geographical area sought to be served with water facilities by the proposed district or the proposed water association shall formally make application to the Public Service Commission of Kentucky in such manner and following such procedures as the Public Service Commission may by regulation prescribe, seeking from the commission the authority to petition the appropriate county judge/executive for establishment of a water district, or to proceed to incorporate or otherwise create a water association. The commission shall thereupon set the application for formal public hearing, and shall give notice to all other water suppliers, whether publicly owned or privately owned, and whether or not regulated by the commission, rendering services in the general area proposed to be served by said water district or water association, and to any planning and zoning or other regulatory agency or agencies with authority in the general area having concern with the application. The commission may subpoena and summon for hearing purposes any persons deemed necessary by the commission in order to enable the commission to evaluate the application of the proponents of said proposed water district or water association, and reach a decision in the best interests of the general public. Intervention by any interested parties, water suppliers, municipal corporations, and governmental agencies shall be freely permitted at such hearing.
- (2) The public hearing shall be conducted by the commission pursuant to the provisions of KRS 278.020. At the time of the hearing, no employment of counsel or of engineering services shall have been made to be paid from water district funds, water association funds, or made a charge in futuro against water district or water association funds, if formation of such water district or water association is permitted by the commission.
- (3) Before the Public Service Commission shall approve any application for creation of a water district or water association, the commission must make a finding and determination of fact that the geographical area sought to be served by such proposed water district or water association cannot be feasibly served by any existing water supplier, whether publicly or privately owned, and whether or not subject to the regulatory jurisdiction of the commission. If it shall be determined that the geographical area sought to be served by the proposed water district or water association can be served more feasibly by any other water supplier, the commission shall deny the application and shall hold such further hearings and make such further determinations as may in the circumstances be appropriate in the interests of the public health, safety and general welfare.

- (4) Any order entered by the commission in connection with an application for creation of a water district or water association shall be appealable to the Franklin Circuit Court as provided by KRS 278.410.

Effective: June 17, 1978

History: Amended 1978 Ky. Acts ch. 384, secs 19 and 180, effective June 17, 1978. --
Created 1972 Ky. Acts ch. 310, sec. 2.

Legislative Research Commission Note. This section was amended by two sections of a 1978 act which do not appear to be in conflict and have been compiled together.

74.015 Repealed, 1972.

Catchline at repeal: Determination by Public Service Commission of necessity for water district prior to organization -- Appeal.

History: Repealed 1972 Ky. Acts ch. 310, sec. 5. -- Created 1966 Ky. Acts ch. 70, sec. 3.

74.020 Appointment of commissioners -- Number -- Terms -- Removal -- Vacancies -- Organization -- Bond -- Compensation -- Mandatory training -- Notice of vacancy.

- (1) A water district shall be administered by a board of commissioners which shall control and manage the affairs of the district. The term of each commissioner is four (4) years, except as provided in this section:
 - (a) If a district lies wholly within a single county, or operates as a single-county district, as provided in paragraph (c) of this subsection, the board of commissioners shall be composed of either three (3) or five (5) members as the county judge/executive shall determine. Members of the board shall be residents of the district, or of any incorporated or unincorporated area served by the district in the county in which the district was originally established, who shall be appointed by the county judge/executive with the approval of the fiscal court. Initial appointments shall be for terms of two (2), three (3), and four (4) years, as designated by the court.
 - (b) Except as provided in paragraph (c) of this subsection, if a district formed in a single county extends its area to include territory in one (1) or more adjacent counties, as provided by KRS 74.115, the board of commissioners shall be appointed by the appropriate county judges/executive, with the approval of the respective fiscal courts of the concerned counties as follows: in two (2) county districts, three (3) members from the original district and two (2) members from the extended portion of the district; for extensions into three (3) or more counties, the respective county judges/executive, with the approval of the respective fiscal courts, shall appoint, in addition to the existing membership of the commission, two (2) members from the original one-county district and two (2) members from the newly extended portion of the district. Orders establishing the extension shall provide for the staggering of initial terms in an equitable manner.
 - (c) If a district acquires an existing water or gas distribution system serving an area which extends beyond the boundaries of the district into one (1) or more additional counties, or if a district extends its area to include territory in one (1) or more adjacent counties as provided by KRS 74.115, it may operate the distribution system so acquired, or extended, without adding additional board members, if the new area to be served shall be deemed to be a minor portion of the total area served by the district, and if the fiscal court of the county containing the minor portion of the total area shall have agreed to the acquisition or to the extension of the distribution system. If less than twenty-five percent (25%) of the total assets of the distribution system are located within any particular county included in the territorial boundaries of the district, it shall be conclusively presumed, with respect to that particular county, that the district comes within the terms of this subsection.
- (2) A commissioner may be removed from office as provided by KRS 65.007 or 74.455.

- (3) A commissioner who participates in any official action by the water district board of commissioners which results in a direct financial benefit to him may be removed from office as provided by KRS 65.007 or 74.455.
- (4) Vacancies shall be filled by the same appointing authority which is empowered to make the original appointment. Vacancies resulting from cause other than expiration of the term shall be filled for the unexpired term only. Notwithstanding KRS 67.710, a vacancy resulting from the expiration of a term or the death, resignation, or removal of the incumbent shall be filled by the Public Service Commission if, within ninety (90) days following the vacancy, the vacancy has not been filled by the appropriate county judge/executive with approval of the fiscal court.
- (5) The commission shall elect a chairman, vice chairman, secretary, treasurer, and any other officers and assistant officers as the commission may deem necessary, each of whom shall be members of the commission. Any two (2) or more offices may be held by the same person, except that the chairman may not hold any other office. Each commissioner shall execute a bond for the faithful performance of the duties of his position.
- (6) Each commissioner shall receive an annual salary of not more than thirty-six hundred dollars (\$3,600), which shall be paid out of the water district fund, except that beginning January 1, 1999, each commissioner who completes during an educational year a minimum of six (6) instructional hours of water district management training approved by the Public Service Commission may receive an annual salary of not more than six thousand dollars (\$6,000) to be paid out of the water district fund. An educational year shall begin on January 1 and end on the following December 31. In the case of single-county districts, which shall be deemed to include districts described in paragraph (c) of subsection (1) of this section, the salary shall be fixed by the county judges/executive with the approval of the fiscal court; in multicounty districts, it shall be fixed by the agreement between the county judges/executive with the approval of their fiscal courts. In fixing and approving the salary of the commissioners, the county judge/executive and the fiscal court shall take into consideration the financial condition of the district and its ability to meet its obligations as they mature.
- (7)
 - (a) In order to receive an increase in salary as specified in subsection (6) of this section, commissioners shall successfully complete six (6) instructional hours of water district management training annually. The training shall be approved and paid for by the water district of the county the commissioner represents. Those commissioners not required to complete the six (6) instructional hours shall be reimbursed for the cost of instruction if they choose to complete the water district training.
 - (b) The Public Service Commission shall be responsible for the regulation of all water district management training programs for commissioners of water districts, combined water, gas, or sewer districts, or water commissions.
 - (c) The Public Service Commission shall encourage and promote the offering of high quality water district management training programs that enhance a water

district commissioner's understanding of his or her responsibilities and duties. The commission shall, no later than January 1, 1999, establish standards and procedures to evaluate, accredit, and approve water district management training programs.

- (8) (a) At least once annually, the Public Service Commission shall provide or cause to be conducted a program of instruction, consisting of at least twelve (12) hours of instruction, that is intended to train newly appointed commissioners in the laws governing the management and operation of water districts and other subjects that the Public Service Commission deems appropriate. The commission may charge a reasonable registration fee to recover the cost of the programs and may accredit programs of instruction that are conducted by other persons or entities and that the commission deems equivalent to its program of instruction.
- (b) Within twelve (12) months of his or her initial appointment, each commissioner shall complete the program of instruction described in paragraph (a) of this subsection. Any commissioner who fails to complete the program within twelve (12) months of his or her initial appointment shall forfeit his or her office and all right to act in discharge of the duties of the office. A commissioner required to attend a program under this subsection shall be reimbursed for the cost of instruction by his or her water district.
- (9) (a) Within thirty (30) days of the occurrence of a vacancy on its board of commissioners resulting from the expiration of a term or the death, resignation, or removal of the incumbent, a water district shall notify in writing the Public Service Commission of the existence of the vacancy. The notice shall include the name of the commissioner who last held the position and the date on which the unexpired term will end.
- (b) Within thirty (30) days of the appointment of a commissioner and the appropriate fiscal court's approval of that appointment, a water district shall notify the Public Service Commission of the appointment. The notice shall include the appointed person's name and the date of the expiration of his or her term.
- (10) The Public Service Commission may promulgate administrative regulations in accordance with KRS Chapter 13A to implement the requirements of this section.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 18, sec. 1, effective July 15, 2010. -- Amended 2008 Ky. Acts ch. 6, sec. 3, effective July 15, 2008. -- Amended 1998 Ky. Acts ch. 76, sec. 1, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 236, sec. 1, effective April 4, 1996. -- Amended 1994 Ky. Acts ch. 298, sec. 1, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 310, sec. 1, effective July 14, 1992; and ch. 388, sec. 3, effective July 14, 1992. -- Amended 1984 Ky. Acts ch. 307, sec. 1, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 330, sec. 9, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 18, sec. 4, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 384, sec. 181, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 257, sec. 1. -- Amended 1974 Ky. Acts ch. 309, sec. 1. -- Amended 1970 Ky. Acts ch. 218, sec. 1. -- Amended 1966 Ky. Acts ch. 170, sec. 1; and ch. 255, sec. 88. -- Amended 1962 Ky. Acts ch. 218, sec. 1. -- Amended 1958 Ky. Acts ch. 174,

sec. 1. -- Amended 1952 Ky. Acts ch. 12, sec. 1. -- Recodified 1942 Ky. Acts
ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 928g-2, 938g-4.

74.030 Legal services -- Payment.

The commission may employ legal counsel whose compensation shall be paid from water district funds.

Effective: July 15, 2008

History: Amended 2008 Ky. Acts ch. 6, sec. 4, effective July 15, 2008. -- Amended 1958 Ky. Acts ch. 174, sec. 2. -- Amended 1946 Ky. Acts ch. 16, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-18.

Legislative Research Commission Note. A technical correction has been made to this section by the Reviser of Statutes under authority of KRS 7.136.

74.040 Chief executive officer -- Employees -- Expenses -- Salary.

The commission may employ a person to serve as the chief executive officer of the water district. This person shall not be one (1) of the water district's commissioners. The person may be designated the general manager, superintendent, or chief executive officer of the district or by any other similar title. The chief executive officer shall perform such additional duties as the commission may require of him or her and shall be subject to the orders of the commission. The chief executive officer shall employ all necessary labor and assistance in the performance of his or her duties, and he or she shall report to the commission all expenses incurred. The salary of the chief executive officer shall be fixed by the commission.

Effective: July 15, 2008

History: Amended 2008 Ky. Acts ch. 6, sec. 5, effective July 15, 2008. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-21.

74.050 Treasurer -- Duties -- Compensation -- Bond.

The treasurer of the commission shall be the lawful custodian of the funds of the water district and shall cause the funds to be disbursed according to procedures adopted by the commission. The procedures shall include a requirement for approval of disbursements by a commissioner in addition to the treasurer. The treasurer shall cause to be maintained a proper record of the receipts and disbursements of the water district in accordance with the Uniform System of Accounts for utilities. In addition to the compensation for commissioners as set out in KRS 74.020, as compensation for his or her services the treasurer shall receive an amount fixed by the commission, not to exceed two hundred dollars (\$200) per year. The treasurer shall execute bond to the commission in an amount and with such surety as determined by the commission.

Effective: July 15, 2008

History: Amended 2008 Ky. Acts ch. 6, sec. 6, effective July 15, 2008. -- Amended 1966 Ky. Acts ch. 255, sec. 89. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 938g-15, 938g-19.

74.060 Repealed, 1958.

Catchline at repeal: Power of appointment to include power of removal.

History: Repealed 1958 Ky. Acts ch. 174, sec. 3. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-16.

74.070 Duties and powers of commission -- Corporate powers of water district exercised by or under authority of commission.

The commission shall be a body corporate for all purposes, and may make contracts for the water district with municipalities and other persons. All corporate powers of the water district shall be exercised by, or under the authority of, its commission. The business and affairs of the water district shall be managed under the direction and oversight of its commission. The commission may prosecute and defend suits, hire the chief executive officer and do all acts necessary to carry on the work of the water district. The commission may adopt bylaws not inconsistent with the provisions of this chapter.

Effective: July 15, 2008

History: Amended 2008 Ky. Acts ch. 6, sec. 7, effective July 15, 2008. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 938g-4, 938g-5.

74.075 Establishment of fire protection district by water district.

The board of commissioners of any legally existing water district created under the authority of KRS Chapter 74 may have the power to create a fire protection district where no fire protection district exists by following the procedures of KRS 65.810 and 75.010.

Effective: July 13, 1984

History: Amended 1984 Ky. Acts ch. 64, sec. 11, effective July 13, 1984. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 64, effective January 2, 1978. -- Created 1972 Ky. Acts ch. 56, sec. 1.

74.076 Limits -- Commissioners.

The newly created fire protection district shall be coextensive with the original water district and the board of commissioners shall be the same for the fire protection district as for the original water district. A fire protection district created under KRS 74.075 to 74.077 shall conform to all the provisions of KRS Chapter 75 except those that are in conflict with KRS 74.075 to 74.077.

History: Created 1972 Ky. Acts ch. 56, sec. 2.

74.077 Postponement of organization pending decision on prior action.

Nothing in KRS 74.075 to 74.077 shall be construed to deny the right to the citizens of a water district to organize a fire protection district as provided under KRS Chapter 75 except that if action has already been taken under KRS 74.075 to 74.077 and remains pending, action for organization of a fire protection district shall be postponed until a final decision has been reached.

History: Created 1972 Ky. Acts ch. 56, sec. 3.

74.080 Rates and regulations.

The commission may establish water rates and make reasonable regulations for the disposition and consumption of water.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-5.

74.085 Repealed, 1994.

Catchline at repeal: Interest rate to be paid by water district.

History: Repealed 1994 Ky. Acts ch. 221, sec. 2, effective July 15, 1994. -- Created 1990 Ky. Acts ch. 357, sec. 1, effective July 13, 1990.

74.090 Condemnation.

If it becomes necessary to acquire a right of way or land, and it cannot be acquired by purchase, the commission may condemn the needed property in the manner provided in the Eminent Domain Act of Kentucky. The owners of land sought to be condemned shall be made parties to the proceeding. Any damage awarded shall be paid by the commission out of the first funds available.

History: Amended 1976 Ky. Acts ch. 140, sec. 24. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-7.

74.100 Acquisition of existing systems -- Extension of mains and laterals -- How paid for.

- (1) Whenever a water supply line or system is in operation in any water district, and is supplying water to the citizens and landowners, and the commission deems it expedient to acquire the existing system, they may examine it, and if they find it properly designed and constructed they may purchase it, and pay for it in the same manner as provided for the original construction and improvement; or may pay for it in whole or in part out of any surplus funds in possession, receipt or anticipation of receipt by the commission.
- (2) The commission may order any work or improvement it deems necessary to extend the necessary water mains and water laterals in the district to supply water to the residents of the district, and pay for such work by assessment against the land benefited according to benefits, as provided in this chapter, or may pay for the work in whole or in part out of the general fund of the water district realized from all other resources in the district.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-6.

74.110 Change of districts -- Procedure -- Deficit.

The territorial limits of an established water district may be enlarged or diminished in the following way:

- (1) The commission shall file a petition with the county judge/executive, describing the territory to be annexed or stricken off, and setting out the reasons therefor.
- (2) Notice of the petition shall be given in the manner provided by KRS Chapter 424. Within thirty (30) days after the notice, any resident of the water district or the territory proposed to be annexed may file objections and exceptions.
- (3) The county judge/executive shall set the matter for hearing, and if the county judge/executive finds that it is reasonably necessary, he shall enter an order annexing or striking off the proposed territory. If the county judge/executive finds that the proposed change is unnecessary, he shall dismiss the petition. Either party may appeal the order to the Circuit Court.
- (4) If any of the territory stricken off has been assessed to pay the costs of any improvements, the commission shall strike the assessments from the assessment roll and refund to the respective owners any assessments collected on the land which have been stricken off.
- (5) If a deficit is incurred by striking off part of a water district, or by striking assessments from the assessment roll, so that the assessment roll is insufficient to pay the bonded indebtedness of the district, the deficit shall be paid out of the general fund of the district, realized from all other resources in the district.

Effective: July 15, 2008

History: Amended 2008 Ky. Acts ch. 6, sec. 8, effective July 15, 2008. -- Amended 1978 Ky. Acts ch. 384, sec. 182, effective June 17, 1978. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-3.

74.115 Extension of district into adjoining county.

- (1) Upon written request of two (2) or more freeholders in a county or counties adjacent to a county containing a water district, the board of commissioners of the district may petition the county judge/executive of the adjoining county or counties for addition of proposed territory. The procedure for such extension shall be the same as prescribed in KRS 74.110 and the county judge/executive of the adjoining county may make such order as is therein provided.
- (2) Water districts may be established and extended regardless of whether the entire territory of the district is continuous, provided that such territory lies in a county or counties in which the district has been authorized to serve.

Effective: June 17, 1978

History: Amended 1978 Ky. Acts ch. 384, sec. 183, effective June 17, 1978. --
Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 20, sec. 6, effective January 2, 1978. --
Created 1966 Ky. Acts ch. 70, sec. 6.

74.120 Incorporated city may be included in district -- Consent -- Contract with city.

- (1) All or any part of an incorporated city may be included in the boundaries of any existing water district or water district being newly organized, provided the governing body of such city by resolution or ordinance gives, or has given, its consent. Said consent may be limited to water, gas or sewage service, and the authority of the water district to serve the area of the incorporated city shall be limited by the exclusion of any type of service from the consent given. Any city which has been included in the boundaries of a water district for ten (10) or more years shall be deemed to have given its consent to the service, whether water, gas, or sewage, which has been provided for such period. The acquisition by a water district of an existing franchise for a water, gas, or sewage distribution system within such a city, whether by purchase, assignment or otherwise, shall be deemed to constitute the consent of the city which granted the franchise in the first instance, but only for the purpose of operating the type of distribution system for which the franchise was granted.
- (2) The commission may contract with any city which is not included within the boundaries of the district for the purpose of furnishing water, gas or sewage services to the residents of such city and may contract with any city for the purpose of obtaining water, gas or sewage services for the use of the district.
- (3) When the commission shall contract with any city of the first five (5) classes in the manner prescribed in this section, such city shall be deemed a part of the district during the life of the contract, but only for the purpose of carrying out the provisions of the contract. Nothing herein shall impair the ownership by the contracting city of its own system, or empower the district to take any action not authorized by the contract.

Effective: July 15, 1988

History: Amended 1988 Ky. Acts ch. 104, sec. 1, effective July 15, 1988. -- Amended 1966 Ky. Acts ch. 170, sec. 2. -- Amended 1962 Ky. Acts ch. 218, sec. 2. -- Amended 1954 Ky. Acts ch. 106, sec. 1. -- Amended 1952 Ky. Acts ch. 133, sec. 6; and ch. 175, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-24.

74.130 Classification of lands for assessments -- Report.

- (1) The commission shall examine the real estate in the district that may be affected by the proposed water system, and classify it into five (5) classes according to the benefit it will receive from the construction and operation of the water system. The real estate receiving the most benefit shall be marked "class A," and the other classes shall be marked "class B," "class C," "class D" and "class E," respectively, the real estate receiving the smallest benefit being marked "class E." All real estate actually receiving water shall be placed in the highest classification. The amount of real estate owned by any person in each class, and the extent benefited shall be determined. The scale of assessment to be made by the commission upon the several classes shall be in the ratio of five (5), four (4), three (3), two (2) and one (1). The classification shall form the basis of the assessment of benefits to the real estate for all purposes.
- (2) If the commission believes that substantial injustice will be done any landowner by strict conformity to the five (5) class rule above, the classification may be changed by diminishing or increasing the number of classes so as to conform to existing conditions.
- (3) The commission shall make a report containing a statement of the estimated cost of the work and improvement to be made in the district, a description of all real estate in the district, showing the amount of real estate in each class, in tabulated form, and the names of the owners, and a statement of the estimated benefits that will accrue to each class of real estate by reason of the construction of the proposed improvements.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-8.

74.140 Acceptance of report -- Notice -- Final hearing.

When the final report is completed and filed, it shall be examined by the county judge/executive, and if it is found to be sufficient it shall be accepted. If it is not sufficient, it may be referred back to the commission with instructions to secure further information, to be reported at a subsequent date fixed by the county judge/executive. When the report is fully completed and accepted by the county judge/executive, a date not less than twenty (20) days thereafter shall be fixed by the county judge/executive for the final hearing upon the report, and notice of the hearing shall be given by publication pursuant to KRS Chapter 424. During that time, a copy of the report shall be on file in the office of the county clerk, and shall be open to the inspection of any landowner or person interested within the district. Any landowner assessed therein may file exception to the report. The county judge/executive upon final hearing shall confirm or reject the report.

Effective: June 17, 1978

History: Amended 1978 Ky. Acts ch. 384, sec. 184, effective June 17, 1978. -- Amended 1966 Ky. Acts ch. 239, sec. 21. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-9.

74.150 Assessment roll -- Statement of costs -- Hearing -- Final order -- Appeal.

- (1) After the classification of the land and the ratio of assessment of the different classes to be made has been confirmed by the county judge/executive, the commission shall prepare an assessment roll in duplicate, signed by the chairman and secretary of the commission, giving a description of all the land in the water district, the name of the owner, and the amount of assessment against each of the several tracts of land. In preparing this assessment roll the commission shall ascertain the total cost of the improvement, the cost of the proceedings and all wages paid or to be paid, and the total shall be the amount to be paid by the lands benefited. Attached to this water-assessment roll and filed with it, shall be a statement of all the costs of the work to be done, and five percent (5%) in addition to meet any unforeseen contingencies. This statement of costs shall also be made in duplicate and signed by the chairman and secretary of the commission. One (1) copy of the assessment roll and statement of costs shall be filed with the county clerk in which the proceeding is pending, and he shall then give at least ten (10) days' notice of the time of the hearing on the assessment roll and statement of costs.
- (2) At the time fixed for the hearing, the county judge/executive shall hear in a summary way all objections to the cost of the improvement, as set out in the statement made by the commission and filed with the assessment roll, and all objections to the assessments of lands therein set forth, and shall enter an order confirming the assessment roll, or directing the commission to change the assessments in accordance with the finding of the county judge/executive. The order of the county judge/executive confirming or modifying the assessment roll and statement of costs shall be final for all purposes if not appealed within thirty (30) days after the entry of the order. The county judge/executive shall also direct the clerk to certify to the treasurer of the commission a copy of the assessment roll as filed by the commission or changed by the county judge/executive. One (1) copy of the assessment roll shall be retained by the clerk and recorded as part of the record.

Effective: July 15, 1988

History: Amended 1988 Ky. Acts ch. 104, sec. 3, effective July 15, 1988. -- Amended 1978 Ky. Acts ch. 384, sec. 185, effective June 17, 1978. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-10.

74.160 Striking assessments from roll -- Procedure.

After the assessment roll has been confirmed or modified by the county judge/executive, if the commission is unable to furnish water to the owner of any land in the district, or if the land in any part of the district is so sparsely populated that in the opinion of the commission water could not be furnished to the owners thereof without incurring an unreasonable burden of additional assessment against the lands or an unreasonable burden of indebtedness against the water district without receiving any corresponding return in the profits realized from the sale of water in the territory, the commission may strike the assessments on land not receiving water from the assessment roll, or may reduce the assessments to conform with the benefits received, and refund to the respective owners any assessments collected that have been stricken off or reduced. After striking or reducing such assessments, the commission shall file a petition with the county judge/executive setting out the reasons why the assessments should be stricken off or reduced, with a certified copy of the assessments so stricken off or reduced. The county judge/executive shall then set the proceeding for a hearing, and after giving at least ten (10) days' notice of the time of the hearing, the county judge/executive shall hear all objections to the order of the commission striking or reducing the assessment, and shall enter an order confirming the action of the commission or directing them to change the assessment roll in accordance with the finding of the county judge/executive. The order of the county judge/executive confirming or modifying the order of the commission striking off or reducing the assessment may be appealed from. If a deficit is incurred by striking or reducing any assessment so as to make the assessments insufficient to pay any bonded indebtedness of the water district, the deficit shall be paid out of the general fund of the district realized from all other revenues collected or to be collected in the district.

Effective: June 17, 1978

History: Amended 1978 Ky. Acts ch. 384, sec. 186, effective June 17, 1978. --
Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat.
sec. 938g-10.

74.170 Payment of assessments in thirty days -- Constructive consent to bond issue or loan.

Any landowner whose land is assessed for any improvement under the provisions of this chapter may pay his assessment in full at any time within thirty (30) days after notice of assessment has been given. Every person who fails to pay the full amount of his assessment to the treasurer of the commission within thirty (30) days shall be deemed as consenting to the issuing of water district bonds or the taking of a loan by the district, to be repaid out of assessment revenues.

Effective: July 15, 1988

History: Amended 1988 Ky. Acts ch. 104, sec. 4, effective July 15, 1988. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 938g-11, 938g-12.

74.175 Deferred assessments -- Limitation on actions.

- (1) When the water district desires to construct a water main which shall be primarily a transmission line and secondarily a line to serve customers along the water main, the commission may recommend to the court that the assessments be on a deferred basis. If the court determines that the water main is primarily a transmission main, and secondarily benefits the property owners abutting the water main, the court may provide that the assessments shall be on a deferred basis.
- (2) In the event the assessments are on a deferred basis, they shall not be immediately due and payable until the benefit to the abutting property owners is realized either by a sale of the property or when the abutting property owner desires to tap into the water main, and at that time the deferred assessment shall be paid in full without interest. For a deferred assessment on which the district has not initiated collection action in the courts by July 14, 1992, limitations on an action to collect shall not begin to run until the assessment is immediately due and payable as provided for in this subsection.
- (3) In the event a property owner who has a deferred assessment against his property sells only a portion of the property or desires water service for only a portion of the property, the deferred assessment shall be prorated and paid only for the portion being sold or for the reasonable area of property being served by the water main. The property owner shall be required to furnish to the commission a plat of the property being sold or the area which will be served with water, and no other area may be served from that service unless an additional portion of the deferred assessment is paid. For an additional portion of a deferred assessment on which the district has not initiated collection action in the courts by July 14, 1992, limitations on an action to collect shall not begin to run until the additional portion is immediately due and payable because of further sale of the property or further extension of water service.
- (4) All remaining provisions of the assessment statutes shall apply to deferred assessments, except as same may be inconsistent with this deferred assessment provision.

Effective: July 14, 1992

History: Amended 1992 Ky. Acts ch. 388, sec. 1, effective July 14, 1992. -- Created 1988 Ky. Acts ch. 104, sec. 2, effective July 15, 1988.

74.177 Extension of water service to agricultural district land -- Deferral of assessment -- Payment of service connection costs.

- (1) When a water district extends its water lines within its district or extends its water lines under KRS 74.110 beyond the district's territorial limits, and the extension would benefit land within an agricultural district created under KRS 262.850, the assessment against the land within the agricultural district for the cost of the extension shall be deferred. The assessment shall become payable when the land is removed, in part or in its entirety, from the agricultural district and developed for nonagricultural use. If only part of the land is removed from the agricultural district, the deferred assessment shall be prorated and paid only on the portion of the land removed. The land remaining in the district shall continue to benefit from the deferred assessment.
- (2) The owner of land for which the assessment of costs for a water line extension has been deferred shall pay for any connection to provide water service from the water line extension to the land benefited by the deferred assessment.

Effective: July 14, 2000

History: Created 2000 Ky. Acts ch. 115, sec. 2, effective July 14, 2000.

74.180 Issuance of bonds or temporary financing of unpaid assessments.

- (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, or may finance improvements on a temporary basis from district revenues or a loan to be repaid when assessments are collected. If the commission decides to issue bonds, it shall give notice that it proposes to issue bonds, giving the amount of bonds to be issued, the rate of interest they are to bear, 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 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 water district 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.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 274, sec. 7, effective July 15, 1996. -- Amended 1988 Ky. Acts ch. 104, sec. 5, effective July 15, 1988. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 938g-11, 938g-13.

74.190 Collection of unpaid installments -- Sale of land -- Redemption -- Settlement with collecting officers -- Fees.

- (1) Upon the first Monday after an installment is due, the commission shall meet and ascertain the parties whose installments are in default and shall within sixty (60) days issue warrants directing the sheriff or other collecting officer to collect the installments that are in default. The collecting officer shall collect the installments, with interest due on them and deferred installments, together with a penalty of six percent (6%), in the same way state and county taxes are collected, and the collecting officer shall settle with the commission within sixty (60) days from the time the installments were certified to him.
- (2) All lands upon which the installments have not been collected at the end of sixty (60) days shall be advertised and sold by the collecting officer in the same manner as in the case of state and county taxes. The sale so made shall be subject to the future installments of the assessments, and at the expiration of ninety (90) days from the date of the original certification of the installments to the collecting officer, the collecting officer shall make final settlement with the commission and pay to them all the moneys in his hands. If the collecting officer fails to make a settlement, the commission may compel him to make the settlement by order against him issued by the district court, after giving him five (5) days' notice in writing. In case any land is not purchased at the sale, the collecting officer shall bid in the land for the district and in his final settlement with the commission shall take credit therefor. The collecting officer shall certify each of the sales to the county clerk as required in the sale of lands for state and county taxes, and the clerk shall record each sale in a book kept by him. For collecting the assessments certified to him the collecting officer shall be paid by the water commission the same fees allowed him for collecting state and county taxes and in the same manner. For recording the certificate of sale the clerk shall be allowed and paid the same fees allowed him by law for similar work in reference to state and county taxes.
- (3) The owner of such real estate, or his representatives, heirs or assigns, shall have the right to redeem the land from the sale as is provided for the redemption of lands sold for state and county taxes, but only upon the same terms and conditions and within the same time as allowed in such case.

Effective: June 17, 1978

History: Amended 1978 Ky. Acts ch. 384, sec. 187, effective June 17, 1978. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 65, effective January 2, 1978. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-13.

74.200 Modification of assessment -- Relevy.

When the county judge/executive has confirmed an assessment for the construction of a water system and the assessment has been modified by a court, or for some unforeseen cause it cannot be collected, the commission may modify the assessment as originally confirmed to conform to the judgment of the court and to cover any deficit caused by the order of the county judge/executive or unforeseen occurrence. The relevy shall be made for the additional sum required, in the same ratio as in the original assessment. In any other case where it is ascertained that the amount assessed against the property in the water district is not sufficient to complete the improvements provided for, such deficit may be paid out of current reserve, or the county judge/executive may order a relevy upon the petition of the commission, or any three (3) or more petitioners. The petition must set forth the amount of the deficit, the causes thereof, and the amount necessary to be raised in order to complete the work. The county judge/executive shall give notice of the filing and purpose of the petition and fix a time, not less than ten (10) nor more than twenty (20) days from the giving of the notice, when the petition shall be acted upon. If upon hearing the county judge/executive finds that the relevy asked for in the petition is necessary in order to complete the work, the county judge/executive shall direct such relevy to be made by the commission. The relevy shall be made in the same ratio as the original assessment was made and shall be collected in the same way.

Effective: June 17, 1978

History: Amended 1978 Ky. Acts ch. 384, sec. 188, effective June 17, 1978. --
Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat.
sec. 938g-14.

74.210 Lien of assessments.

The assessment roll and each installment shall be a first lien on the land assessed, subject only to the lien for state and county taxes.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 938g-10, 938g-13.

74.220 Assessment roll as evidence -- Enforcement of liens -- Proceedings -- Costs.

The assessment roll as made up by the commission shall be prima facie evidence in all courts that all steps necessary to be taken have been properly taken, and that all proceedings are regular and valid. The commission may enforce liens under this chapter by an action against the land in the Circuit Court at any time after January 1 of the year for which the assessments were levied. The right to institute such an action shall not prevent sales by the collecting officer as in cases of delinquent state and county taxes. The proceeds of sales in actions under this section shall be paid into the treasury of the district.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-18.

74.230 Effect of irregularity -- Exclusive remedies -- Effect of release.

The collection of an assessment shall not be defeated, where the parties are properly before the court, on account of any irregularity in the proceedings that does not affect the substantial right of the party complaining. The remedies provided for in this chapter are exclusive of all other remedies. If any person or property is released, or any assessment raised or lowered, it shall not affect the rights or liabilities of any other property or person.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-20.

74.240 Record of expenses to be kept -- Apportionment of expenses -- Financial report to consumers -- Books to be open for inspection.

- (1) The commission shall keep an account of the time spent by all employees, and each item of expense incurred in connection with any water district, and shall charge such account to the district for which the expense was incurred. Where the time or work is upon more than one (1) district at the same time, it shall be apportioned between the districts. In the event any compensation fixed by the commission for any employee is on a salary basis, such salary shall be equitably apportioned between the districts by the commission.
- (2) The commission shall be required to prepare and make available, to the consumers of the water supplied by any water district, an annual statement of receipts and disbursements; and any floating or bonded indebtedness. This report shall show the cost of water, material, labor, other salaries and any other expenses incidental to the operation and maintenance.
- (3) All books of the commission shall be open for public inspection during normal business hours.

History: Amended 1946 Ky. Acts ch. 70, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-17.

74.250 Repealed, 2208.

Catchline at repeal: Fees -- Costs.

History: Repealed 2008 Ky. Acts ch. 6, sec. 18, effective July 15, 2008. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-15.

74.260 Repealed, 2006.

Catchline at repeal: Letting of work -- Notice -- Procedure -- Bond of bidder.

History: Repealed 2006 Ky. Acts ch. 158, sec. 2, effective July 12, 2006. -- Amended 2005 Ky. Acts ch. 108, sec. 1, effective June 20, 2005. -- Amended 1966 Ky. Acts ch. 239, sec. 22. -- Amended 1952 Ky. Acts ch. 92, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-22.

74.270 Repealed, 2002.

Catchline at repeal: Monthly estimates -- Payment.

History: Repealed 2002 Ky. Acts ch. 193, sec. 1, effective July 15, 2002. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-23.

74.280 Additions may be acquired.

- (1) Any water district may construct or acquire, and operate, within or without the district, additions, extensions, and all necessary appurtenances to the water system, the cost of which may not be assessed as a local benefit, for the purpose of supplying the water district with water.
- (2) One (1) or more of such additions, extensions, or appurtenances owned by one (1) or more persons may be acquired as a single enterprise, and the commission may agree with the owner as to the value thereof and purchase the same at that value.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-28 (1933 Supplement).

74.290 Issuance of bonds for additions.

- (1) For the purpose of defraying the cost of constructing or acquiring any additions, extensions, and necessary appurtenances under KRS 74.280, the water district may borrow money and issue negotiable bonds. Before any bonds are issued an ordinance shall be enacted by the commission specifying the amount of the bonds and the rate of interest they are to bear, and reciting that the proposed additions, extensions, or necessary appurtenances that are to be constructed or acquired are to be made pursuant to the provisions of KRS 74.280 to 74.310.
- (2) All bonds issued under this section shall bear interest at a rate or rates or method of determining rates payable at least annually, and shall be executed in a manner, and be payable at times not exceeding fifty (50) years from the date of issue, and at a place, as the commission shall determine.
- (3) All bonds shall be negotiable and shall not be subject to taxation. If any officer whose signature or countersignature appears on the bonds or coupons ceases to be an officer before delivery of the bonds, his signature or countersignature shall nevertheless be valid the same as if he had remained in office until delivery. The bonds shall be sold in a manner as the commission shall deem for the best interest of the water district, or the contract for the acquisition of any additions, extensions, and appurtenances to the waterworks may provide that payment shall be made in bonds. The bonds shall be payable solely from the revenues of the waterworks and shall not constitute an indebtedness of the water district within the meaning of the Constitution. It shall be plainly stated on the face of each bond that it has been issued under the provisions of KRS 74.280 to 74.310 and that it does not constitute an indebtedness of the water district within the meaning of the Constitution.
- (4) If the commission finds that the bonds authorized will be insufficient to accomplish the purpose desired, additional bonds may be authorized and issued subject to the limitations prescribed for the original bonds.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 274, sec. 8, effective July 15, 1996. -- Amended 1968 Ky. Acts ch. 110, sec. 6. -- Amended 1966 Ky. Acts ch. 70, sec. 7. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-28 (1933 Supp.).

74.300 Payment of bonds for additions -- Operating and depreciation funds.

- (1) All money derived from any bonds issued under KRS 74.280 to 74.310 shall be applied solely for the construction or acquisition of the additions, extensions and appurtenances, or to advance the payment of interest on bonds during the first three (3) years following the date of issue of the bonds.
- (2) At or before the issuance of such bonds the commission shall by ordinance set aside and pledge the income and revenue of the waterworks into a separate and special fund to be used and applied in the payment of the cost of the additions, extensions or appurtenances and the maintenance, operation and depreciation thereof. The ordinance shall definitely fix and determine the amount of revenue that is necessary to be set apart and applied to the payment of the principal and interest of the bonds, and the proportion of the balance of such income and revenue that is to be set aside as a proper and adequate depreciation account. The balance shall be set aside for the operation and maintenance of the waterworks. The rates to be charged for the service from the waterworks shall be sufficient to provide for the payment of interest upon all bonds and to create a sinking fund to pay the principal when due, and to provide for the operation and maintenance thereof and an adequate depreciation account.
- (3) If there is a surplus in the operating and maintenance fund equal to the cost of maintaining and operating the waterworks during the remainder of the current calendar or fiscal year, and during the next calendar or fiscal year, the commission may at any time transfer any excess over that amount to the depreciation account.
- (4) The funds in the depreciation account shall be expended in balancing depreciation in the waterworks or in making new constructions, extensions or additions thereto. The funds may be invested as the commission designates and the income from investments shall be credited to the depreciation account.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-28 (1933 Supplement).

74.310 Receiver on default.

If there is any default in the payment of the principal or interest of any bonds issued under KRS 74.280 to 74.300, any court having jurisdiction of the action may appoint a receiver to administer the waterworks on behalf of the water district. The receiver shall charge and collect rates sufficient to provide for the payment of any bonds or obligations outstanding against the waterworks and for the payment of the operating expenses and shall apply the income and revenue in conformity with KRS 74.300.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-28 (1933 Supplement).

74.320 Refunding bonds authorized.

Water districts organized and operating under this chapter, or under Chapter 139 of the Acts of 1926, may issue refunding bonds for the purpose of refunding any bonded debt.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-28.

74.330 Issuance -- Form of bonds -- Signatures.

Refunding bonds shall be issued under the signature of the chairman of the commission, the countersignature of the treasurer of the commission, and the seal of the district. The bonds shall be serially numbered. The commission shall prescribe the form and denominations of the bonds, and the time, not exceeding forty (40) years, at which they will mature and be redeemable. The bonds shall bear interest at a rate or rates or method of determining rates as the commission directs, be payable at least annually, and shall have interest coupons attached. The proceeds of the bonds shall be used exclusively for the refunding of bonded debts. In case any officer whose signature or countersignature appears on the bonds or coupons ceases to be an officer before delivery of the bonds, his signature or countersignature shall nevertheless be valid the same as if he had been in office until delivery.

Effective: July 15, 2008

History: Amended 2008 Ky. Acts ch. 6, sec. 9, effective July 15, 2008. -- Amended 1996 Ky. Acts ch. 274, sec. 9, effective July 15, 1996. -- Amended 1968 Ky. Acts ch. 110, sec. 7. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-29.

74.340 Interest payments and repurchase of bonds out of sinking fund -- Bonds negotiable and nontaxable.

Upon the issuance of refunding bonds, the water district shall annually, from delinquent assessment collection and other revenues, carry to the sinking fund of the water district an amount sufficient to pay the annual interest on the bonds and create a fund for their purchase. Whenever there is a sufficient sum in the sinking fund over the amount required for the payment of interest, it shall be used in the purchasing of as many bonds as is practicable. All such bonds shall be negotiable and shall not be subject to taxation.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-30.

74.350 County may pay part costs.

Any county may, by resolution of the fiscal court, pay any part of the costs of establishing or purchasing a water line or water system.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-25.

74.360 Manner of giving notices required by this chapter.

The notices required by KRS 74.110, 74.150, 74.160, 74.170, 74.180 and 74.200 shall be given by publication pursuant to KRS Chapter 424.

History: Amended 1966 Ky. Acts ch. 239, sec. 23. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 938g-3, 938g-9, 938g-10, 938g-11, 938g-14.

74.361 Merger of water districts -- Hearing -- Orders.

- (1) The General Assembly of the Commonwealth of Kentucky determines as a legislative finding of fact that reduction of the number of operating water districts in the Commonwealth will be in the public interest, in that mergers of such districts will tend to eliminate wasteful duplication of costs and efforts, result in a sounder and more businesslike degree of management, and ultimately result in greater economies, less cost, and a higher degree of service to the general public; and that the public policy favors the merger of water districts wherever feasible.
- (2) The Public Service Commission of Kentucky is authorized and empowered to initiate, carry out, and complete such investigations, inquiries, and studies as may be reasonably necessary to determine the advisability as to the merger of water districts. Prior to ordering a hearing with reference to the merger of any water district into one (1) or more additional water districts, the Public Service Commission shall cause to be prepared in writing a feasibility report and study regarding the proposed merger, containing such studies, investigations, facts, historical data, and projections as in the circumstances may be required in order to enable the commission to formulate a proper decision regarding such merger.
- (3) Based upon the written report and study required to be made incident to any water district merger, the Public Service Commission may propose by order that a merger of water districts be accomplished, and, upon the issuance of such order, shall give actual notice to all water districts proposed to be merged. Said order shall provide for a formal public hearing to be held before the Public Service Commission on the subject of such proposed merger. Actual notice of such merger hearing shall also be furnished to the county judges/executive of each county containing a water district proposed to be merged, and each water commissioner of a water district proposed to be merged, and notice of such public hearing shall be afforded to the public served by the respective water districts sought to be merged, by newspaper notice in accordance with the provisions of KRS Chapter 424.
- (4) A formal hearing before the Public Service Commission shall be held with reference to such merger proposal, and, upon such occasion, all water districts which are sought to be merged into a single entity shall be afforded the right to appear, to present evidence, to examine all exhibits and testimony, to cross-examine all witnesses, and to submit such memoranda, written evidence, and briefs as may be desired. Such public hearing may be adjourned from time to time by the Public Service Commission, and notice of such adjournments may, but need not, be afforded as with reference to the initial public hearing. At the conclusion of such proceedings, the Public Service Commission shall enter its order, either merging the water districts which are the subject of the merger proceedings into a single water district, or abandoning the merger proposal.
- (5) Outstanding obligations of any water district merged in accordance with the provisions of this section which are secured by the right to levy an assessment as provided by KRS 74.130 to 74.230, inclusive, or secured by a pledge of the income and revenues of the systems operated by any such merged water district, shall continue to be retired from such moneys and funds as shall be collected from the

users of facilities operated by such merged water districts in the original water district area in accordance with the terms and provisions of the enabling laws and the authorizing resolutions or indentures under which the outstanding obligations were issued, until all such obligations have been retired.

- (6) In any order ordering the merger of water districts, the Public Service Commission shall make such additional orders as may be required in connection with the schedule of rates, rentals and charges for services rendered to be levied by the water district which remains in existence following such merger, having due regard to contractual commitments made and entered into by the constituent merged water districts in connection with the issuance of obligations by such districts.
- (7) Upon the effective date of any merger of water districts, the water commissioners of the merged water districts shall continue to serve as water commissioners of the resulting district, regardless of their normal term expiration, until one (1) year after approval of the merger by the Public Service Commission. Thereafter, the board shall be composed as set forth in KRS 74.363. The appropriate county judge/executive or county judges/executive shall appoint and reappoint water commissioners to manage the business and affairs of the resultant water district, in the manner provided by KRS 74.363.
- (8) Any order of merger entered by the Public Service Commission in accordance with this section shall be subject to all of the provisions of KRS Chapter 278, with reference to petitions for rehearing, and appeal.
- (9) Using the authority of this section the Public Service Commission can also cause mergers of water associations into water associations or mergers of water associations into water districts.
- (10) Nothing contained herein shall be construed to prohibit or limit in any respect the acquisition by water utilities subject to the jurisdiction of the commission or by municipally owned water utilities of the assets of water districts or water associations or the merger of water districts or water associations and water utilities subject to the jurisdiction of the commission or municipally owned water utilities.

Effective: July 15, 2008

History: Amended 2008 Ky. Acts ch. 6, sec. 10, effective July 15, 2008. -- Amended 1978 Ky. Acts ch. 384, sec. 189, effective June 17, 1978. -- Created 1972 Ky. Acts ch. 310, sec. 4.

**74.363 Merger of water districts -- Board of resulting district -- Transfer of assets -
- Payment of obligations.**

- (1) Boards of commissioners of any two (2) or more water districts may by concurrent action and by approval of a majority of the membership of the board of each merge their districts into one (1).
- (2) The members of the boards of commissioners of the merged water districts shall serve as members of the board of commissioners of the resulting district, regardless of their normal term expiration, until one (1) year after approval of the merger by the Public Service Commission. Thereafter, the board shall be composed as follows:
 - (a) If the boundaries of the resulting district lie wholly within a single county, the board of commissioners shall be composed of between three (3) and seven (7) members as agreed upon by the merged water districts in their merger documents.
 - (b) If the boundaries of the resulting district lie within two (2) or more counties, the board of commissioners shall be composed of six (6) or more members as agreed upon by the merged water districts in their merger documents.
- (3) Each appointment to the board of commissioners of the resulting district shall be made by the appropriate county judge/executive with the approval of the fiscal court. Each member of the board shall be a resident of the county from which he or she is appointed. The initial terms of the board of commissioners after the merger shall be as follows: approximately one-third (1/3) of the commissioners shall be appointed for a term of two (2) years; approximately one-third (1/3) of the commissioners shall be appointed for a term of three (3) years; and the remaining commissioners shall be appointed for a term of four (4) years. Thereafter, all commissioners shall be appointed for a term of four (4) years. KRS 74.020(2) to (10) shall apply to all commissioners and vacancies on the board of commissioners.
- (4) The resulting district shall have all the assets and legal liabilities of the water districts joining in the merger. The separate existences of the water districts joining in the merger, except the resulting district, shall cease, and the title to all real estate and other property owned by the water districts joining in the merger shall be vested in the resulting district without reversion or impairment. Bonded obligations of any district secured by the right to levy an assessment as provided by KRS 74.130 through 74.230 or secured by the revenue of the systems operated by the district shall continue to be retired or a sinking fund for such purpose created from the tax assessments or revenue from the system operated by the district from funds collected over the same area by the new board of commissioners in accordance with the laws under which the bonds were issued until all bonded obligations of the old district have been retired.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 18, sec. 2, effective July 15, 2010. -- Amended 2008 Ky. Acts ch. 6, sec. 11, effective July 15, 2008. -- Amended 1998 Ky. Acts ch. 76, sec. 2, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 236, sec. 2, effective April 4, 1996. -- Amended 1994 Ky. Acts ch. 298, sec. 2, effective July 15, 1994. -- Created 1966 Ky. Acts ch. 70, sec. 4.

74.367 Discontinuance of water district -- Procedure.

- (1) At any time after the organization of a water district, and after approval by the Public Service Commission in a proceeding similar to that provided by KRS 74.012, more than fifty percent (50%) of the freeholders within the district may file a petition with the county judge/executive who had jurisdiction over the organization of the district requesting discontinuance of the water district. The petition shall state the reasons for discontinuance and that all obligations of the district have been met and that approval of the Public Service Commission has been obtained.
- (2) After giving notice as provided in KRS Chapter 424 the county judge/executive may conduct such hearings on the petition as may be necessary to assist in making a determination.
- (3) If, after hearings on the petition for discontinuance of the district the county judge/executive determines that a discontinuance is in the best interest of the residents of the district, the water district shall be dissolved by order of the county judge/executive and a copy of the order shall be forwarded to the Public Service Commission.

Effective: July 15, 1980

History: Amended 1980 Ky. Acts ch. 369, sec. 8, effective July 15, 1980. -- Amended 1980 Ky. Acts ch. 188, sec. 53, effective July 15, 1980. -- Created 1966 Ky. Acts ch. 70, sec. 5.

Legislative Research Commission Note. This section was amended by two 1980 acts which do not appear to be in conflict and have been compiled together.

74.370 Construction, acquisition or enlargement of system by issuance of revenue bonds or by a combination of bonds and assessments.

- (1) Any water district, created in the manner provided in KRS 74.010 to 74.070, both inclusive, may if the commissioners of such water district deem it feasible, build, or acquire or enlarge a water system without resort to, or in combination with, the right to levy assessments for the cost of such water system, as is provided in KRS 74.130 to 74.240, 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, or payable partially from revenues and partially from assessments.
- (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 or partially by the revenue of the system and partially by assessments, 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 water district and the commission shall have the same powers and duties as a city of the second to sixth class inclusive under the provisions of KRS 96.350 to 96.510, both inclusive. However, the water district and the commission shall not be limited solely to the revenue of the system in securing revenue bonds so issued.

Effective: July 15, 2008

History: Amended 2008 Ky. Acts ch. 6, sec. 12, effective July 15, 2008. -- Amended 1988 Ky. Acts ch. 104, sec. 6, effective July 15, 1988. -- Created 1944 Ky. Acts ch. 141, sec. 1.

74.380 Refunding assessment bonds 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 74.130 to 74.230, both inclusive, 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 74.370.

History: Created 1944 Ky. Acts ch. 141, sec. 2.

74.390 Revenue bond plan is alternative.

KRS 74.370 and 74.380 shall not repeal nor reduce any existing rights or duties of a water district, and the commissioners thereof, but shall constitute an additional and alternate method of financing.

History: Created 1944 Ky. Acts ch. 141, sec. 3.

74.395 Financing of an expansion of water district system -- Plan for expansion project -- Applicability.

- (1) A water district organized under this chapter may elect to finance all or part of an expansion of its system by adding a temporary surcharge to the rates charged for service. All funds so collected shall be set apart in a reserve trust account, shall be invested in securities issued or guaranteed by the United States government until they are needed, and shall be expended, together with any interest or other earnings, solely for the expansions or extensions specified in the plan described under subsection (2) of this section. If construction has not begun five (5) years after the surcharge is implemented, all funds so collected shall be returned to the water district customers, together with interest and earnings. This section shall constitute an additional or alternate method of financing expanded facilities, and shall not repeal or reduce any existing rights or duties of a water district.
- (2) A water district which elects to establish a reserve trust account under this section shall develop a plan for the expansion project or projects to be financed from the reserve, which shall include the design and estimated cost of each element of the expansion, a time schedule for each step in the project, the proposed financing, and the amount of surcharge to water district rates needed to collect the amounts to be financed out of district reserves. After approval by the board of commissioners, the plan and proposed rates shall be submitted to the Public Service Commission. The commission, after a public hearing, shall issue an order approving, modifying or rejecting the plan. If a plan is approved, the commission shall establish a reasonable surcharge to implement the plan to be collected for a period no longer than five (5) years. The commission shall require the district to maintain its records in such a manner as will enable it, or the commission or its customers, to determine the amounts to be refunded and to whom they are due in the event that surcharge amounts shall be refunded.
- (3) The water district may, with the approval of the commission, amend its plan to reflect subsequent developments or new information, but the changes shall not violate the intent of the initial plan.
- (4) The provisions of this section also shall apply to water associations organized under KRS Chapter 273.

Effective: July 15, 1988

History: Created 1988 Ky. Acts ch. 323, sec. 1, effective July 15, 1988.

74.400 District may acquire, develop, maintain and operate gas system -- Procedure.

- (1) Any county judge/executive, except in counties containing a city of the first class, upon petition of seventy-five (75) resident freeholders of a water district organized under the provisions of KRS 74.010, may authorize said water district to acquire, develop, maintain, and operate a system for the distribution of gas to the citizens of the county. The petition shall describe the territory intended to be included in the area to be served and shall set out the reasons a gas distribution system is needed.
- (2) When the petition is filed, the county judge/executive shall give notice of the filing by publication as provided in KRS Chapter 424. Within thirty (30) days after the publication, any resident of the district may file objections, and the county judge/executive shall set the matter for hearing within ten (10) days. If the county judge/executive finds the establishment of a gas distribution system by such district reasonably necessary for the public health, convenience, and comfort of the residents, he shall make an order authorizing the establishment or acquisition of the gas distribution system.
- (3) The county judge/executive may in his order strike off any part of the territory that the testimony shows will not be benefited by the creation of the distribution system. If the county judge/executive does not find that the gas distribution system is necessary he shall dismiss the petition. Either party may appeal the order to the Circuit Court.

Effective: June 17, 1978

History: Amended 1978 Ky. Acts ch. 384, sec. 191, effective June 17, 1978. -- Amended 1966 Ky. Acts ch. 170, sec. 3; and ch. 239, sec. 24. -- Created 1952 Ky. Acts ch. 133, secs. 1 to 3.

74.401 Gas system established only if primary supply in district or county.

All other provisions of this chapter to the contrary notwithstanding, no water district created under this chapter shall establish a gas distribution system unless the primary source of the gas to be distributed is natural gas produced from within the territorial limits of the district or of a county in which the district is located. A gas distribution system so established may contract with a seller of gas for supplementing supplies of gas. Nothing in KRS 74.020, 74.120, 74.400, 74.401 and 74.408 shall be construed to enlarge any requirement under existing law relating to the furnishing of gas to a water district by any other supplier. However, nothing in this section shall prohibit the continued operation of a gas distribution system in operation pursuant to the provisions of this chapter prior to June 16, 1966.

History: Created 1966 Ky. Acts ch. 170, sec. 5.

74.405 Gas distribution system to be administered by water commissioners.

If the water district is authorized to establish the gas distribution system, such system shall be established, maintained, and operated by the water commissioners of the district authorized to establish said system and said commissioners shall have all of the powers and authority, as regards the gas distributing system, that are conferred upon them for the purpose of furnishing a water supply under KRS 74.010 to 74.390.

Effective: June 19, 1952

History: Created 1952 Ky. Acts ch. 133, sec. 4, effective June 19, 1952.

74.407 Operation of sewage disposal systems.

In addition to the other authority which water districts presently have under this chapter, water districts are hereby authorized to acquire, develop, maintain and operate sewage disposal systems within the confines of their respective districts except that such sewer systems shall not include territory within the boundaries of existing municipal corporations having the authority to provide such sewer services without the consent of such municipal corporations. In the event of annexation of territory within a water district by another municipal corporation authorized to provide sewer systems and services, the water district may continue to provide and charge for sewer services within such newly annexed areas until such annexing municipal corporation makes adequate payment, by negotiation or condemnation, for such sewage disposal facilities owned and operated by the water district. The water district commissioners shall have all of the powers and authority, as regards sewer systems that are conferred upon them for the purpose of furnishing a water supply under KRS 74.010 to 74.415.

Effective: July 15, 2008

History: Amended 2008 Ky. Acts ch. 6, sec. 13, effective July 15, 2008. -- Created 1962 Ky. Acts ch. 152, sec. 1.

74.408 Board to determine order in which water, gas or sewage service is to be commenced.

The authority of a water district to establish water and gas distribution systems, and sewage treatment and disposal systems, having been recognized and established, it shall be the function of the board of commissioners of the water district to determine when, and in what order, each of these functions shall be commenced, and the operation of one (1) type of system shall not be a prerequisite for the operation of another type of system.

History: Created 1966 Ky. Acts ch. 170, sec. 4.

74.410 Revenue bonds may be issued as provided in KRS 58.010 to 58.140.

Water districts may, in addition to all other methods provided by law, acquire and develop water systems, systems for the distribution of natural, artificial, or mixed gas and sewage disposal systems through the issuance of revenue bonds under the terms and provisions of KRS 58.010 to 58.140.

History: Amended 1962 Ky. Acts ch. 152, sec. 2. -- Created 1952 Ky. Acts ch. 133, sec. 5.

74.412 Extending lines through territory of other political subdivision.

Where operation of a sewer system requires, because of watershed factors or other reasons, water districts are authorized to extend lines through the territory of any municipal corporation or county with prior consent of such municipal corporation or county.

History: Created 1962 Ky. Acts ch. 152, sec. 3.

74.414 Contract with other municipality or district for services.

The commissioners of a water district, in order to abate possible health menaces in their area and to increase the consumption of water in the area, or whenever such commissioners deem it to be for the general benefit of the water district, shall have the authority to contract with any city, water district or sewer construction district, or other incorporated municipality or district, to provide for the operation of a water system, or a sanitary sewer system, or both, regardless of whether or not such water district operated by said board of commissioners has or will acquire any ownership rights in such systems to be so operated, upon such terms and conditions as such board of commissioners may deem appropriate, with or without any consideration being paid to or received by such water districts, other than the general benefit which may accrue to the water district from having more water or sewer customers and consequent increased use of water or sewer services.

History: Amended 1966 Ky. Acts ch. 146, sec. 1(1). -- Created 1962 Ky. Acts ch. 152, sec. 4.

74.415 Commissioners may consider installation of fire hydrants on new or extended water lines.

- (1) The commissioners of a water district, or the governing body of a water association referred to in KRS 74.012(1), in order to provide adequate means of fire protection, may consider the installation of fire hydrants on new or extended water lines within their area. They may investigate the availability of supplementary funding to pay the incremental costs of line sizing and hydrant installation. The commissioners or governing body shall not eliminate fire hydrants from new or extended water lines unless they determine that hydrants are not feasible. Their analysis shall include consideration of the incremental costs of adequately sized pipe and associated pumps and towers, and the benefits of real estate development, water sales, the availability of fire protection insurance, and the reduced fire insurance premiums which may result from the installation of hydrants at specified intervals.
- (2) If a private real estate subdivision developer has not included adequately sized pipe and fire hydrants in his development plan, the commissioners of a water district or the governing body of a water association which has the capacity to supply adequate water for fire hydrants shall require, at the time the developer applies for permission to hook into the district's water lines, an analysis by the developer of the incremental cost of hydrants and piping adequately sized for hydrants, the effect of hydrants on the cost and availability of fire protection insurance, and conclusions as to why the installation of hydrants is not feasible.

Effective: July 14, 1992

History: Amended 1992 Ky. Acts ch. 122, sec. 2, effective July 14, 1992. -- Created 1966 Ky. Acts ch. 146, sec. 1(2).

74.416 Repealed, 2008.

Catchline at repeal: Approval of sanitary sewer system project in Jefferson County.

History: Repealed 2008 Ky. Acts ch. 6, sec. 18, effective July 15, 2008. -- Created 1962 Ky. Acts ch. 152, sec. 5.

74.420 Definitions for KRS 74.420 to 74.520.

As used in KRS 74.420 to 74.520, unless the context requires otherwise:

- (1) "Sources of supply of water" means and includes any or all of the following: wells, impounding reservoirs, standpipes, storage tanks, pumps, machinery, purification plants, softening apparatus, trunk mains, and all other appurtenances useful in connection with developing and furnishing a supply of water under pressure into the water distribution systems of the cities, water districts, water associations or federal agencies which are represented by a commission created pursuant to the provisions of KRS 74.420 to 74.520.
- (2) "Water association" means a nonprofit corporation formed for the purpose of furnishing water services to the general public pursuant to KRS Chapter 273.

Effective: June 24, 2003

History: Amended 2003 Ky. Acts ch. 167, sec. 1, effective June 24, 2003. -- Amended 1996 Ky. Acts ch. 122, sec. 1, effective July 15, 1996. -- Created 1960 Ky. Acts ch. 207, sec. 1, effective June 16, 1960.

74.430 Authority for joint operation of water sources.

In the interest of the public health and for the purpose of providing an adequate supply of water to cities, water associations, water districts, and facilities owned or operated by federal agencies, any two (2) or more cities, or any two (2) or more water districts organized under this chapter, or any combination of cities, water districts, water associations, and federal agencies may jointly acquire, either by purchase or construction, sources of supply of water and may operate jointly the sources of supply of water and improve and extend them in the manner provided in KRS 74.420 to 74.520. The governing body of any city, water association, water district, or federal agency desiring to avail themselves of the provisions of KRS 74.420 to 74.520 shall adopt a resolution or ordinance determining and electing to acquire and operate jointly sources of supply of water.

Effective: June 24, 2003

History: Amended 2003 Ky. Acts ch. 167, sec. 2, effective June 24, 2003. -- Amended 1996 Ky. Acts ch. 122, sec. 2, effective July 15, 1996. -- Created 1960 Ky. Acts ch. 207, sec. 2, effective June 16, 1960.

74.440 Procedure for creation of water commission.

- (1) Upon the adoption of an ordinance or resolution by the governing body of each city, water association, or water district, or upon a decision by a federal agency, a certified copy of it shall be filed with the county judge/executive of the county in which the cities, water associations, water districts, or federal agencies proposing the creation of the commission having the greatest aggregate population are situated; and upon the filing, the county judge/executive shall by appropriate order set a date for a public hearing on the creation of the commission and shall give reasonable notice of the public hearing, which notice may be given in the manner as provided by KRS Chapter 424. Any customer of the water systems or resident of the cities proposing the creation of the commission may file objections; and at the public hearing if the county judge/executive finds that the establishment of the commission is reasonably necessary or advantageous for the public health, convenience, and comfort of the customers of all the water systems which proposed the creation of the commission, he shall make an order establishing the commission and designating it by name which name shall include the words "water commission."
- (2) If the county judge/executive does not find that the creation of a commission is reasonably necessary or advantageous, he shall make an appropriate order in this regard. Any party in interest may appeal the order to the Circuit Court or the cities, water associations, and water districts may revise and readopt the ordinances or resolutions, or the federal agency may revise its decision.

Effective: June 24, 2003

History: Amended 2003 Ky. Acts ch. 167, sec. 3, effective June 24, 2003. -- Amended 1996 Ky. Acts ch. 122, sec. 3, effective July 15, 1996. -- Amended 1978 Ky. Acts ch. 384, sec. 192, effective June 17, 1978. -- Created 1960 Ky. Acts ch. 207, sec. 3, effective June 16, 1960.

74.450 Membership of water commission -- Term -- Compensation -- Removal -- Status.

- (1) After the county judge/executive has made an order creating a water commission, the presiding officer of each of the cities, water associations, or water districts which proposed the creation of the commission with the approval of its governing body, and each federal agency which joined in a proposal shall appoint one (1) commissioner. If the number of commissioners so appointed by the presiding officers of the cities, water associations, or water districts and by the federal agency or agencies shall equal or exceed five (5), no further commissioners shall be appointed and the commissioners shall be and constitute the water commission.
- (2) If the number of commissioners appointed by the presiding officers of the cities, water associations, water districts, or federal agencies shall be less than five (5), the county judge/executive who entered the order creating the commission shall appoint additional commissioners to the commission as necessary to make the number of commissioners equal five (5). The commissioners shall constitute the commission, which shall be a public corporation and a public body corporate and politic with the powers and duties specified in KRS 74.420 to 74.520. The commission may in its corporate name contract and be contracted with, sue and be sued, adopt and alter at its pleasure a corporate seal, and purchase, own, hold, and dispose of all real and personal property necessary for carrying out its corporate purpose under KRS 74.420 to 74.520.
- (3) The commissioners originally appointed shall meet and select by lot their respective terms of office so that approximately one-third (1/3) of the commissioners shall serve for a term of two (2) years, a like number for a term of three (3) years and the remaining commissioner or commissioners for a term of four (4) years. The terms shall be deemed to commence from the first day of the month during which the order of the county judge/executive creating the commission was entered.
- (4) Upon the expiration of the term of office of each of the commissioners, a successor shall be appointed to succeed him for a term of four (4) years and the appointment shall be made in the same manner as the original appointment.
- (5) Each commissioner shall serve until his successor has been appointed and has been qualified. Each commissioner shall be a resident of the service area of the water systems or an employee of the federal agency which is represented by the commission. A commissioner shall be eligible for reappointment upon the expiration of his term. A vacancy shall be filled for the balance of the unexpired term in the same manner as that prescribed for the appointment of the person who has ceased to hold office. Each commissioner shall receive the same compensation, which shall not be more than five hundred dollars (\$500) per year, to be fixed by the commission and to be paid out of commission funds, except that a commissioner representing a federal agency shall serve without compensation. Each commissioner shall furnish a bond for faithful performance of his official duties. This bond shall not be less than five thousand dollars (\$5,000); the amount shall be fixed by the commission; and its cost shall be paid by the commission.

- (6) Each commissioner may be removed by the official by whom he was appointed, for cause, after hearing by the appointing official and after at least ten (10) days' notice in writing has been given to the commissioner, which notice shall embrace the charges preferred against him. At the hearing he may be represented by counsel. The finding of the appointing official shall be final and removal results in vacancy in the office. A federal agency shall determine its own appointment and removal procedures for its representative.

Effective: June 24, 2003

History: Amended 2003 Ky. Acts ch. 167, sec. 4, effective June 24, 2003. -- Amended 1996 Ky. Acts ch. 122, sec. 4, effective July 15, 1996. -- Amended 1978 Ky. Acts ch. 384, sec. 193, effective June 17, 1978. -- Created 1960 Ky. Acts ch. 207, sec. 4, effective June 16, 1960.

74.455 Removal of district water commissioner -- Causes.

- (1) From and after the creation and establishment of a water district and the appointment of water commissioners to manage the affairs of the district, and following the acquisition or construction by any duly created and established water district of a public water system, and the consequent establishment of regulatory jurisdiction over such water district by the Public Service Commission of Kentucky, the Public Service Commission may remove any water commissioner from his office for good cause, including, inter alia, incompetency, neglect of duty, gross immorality, or nonfeasance, misfeasance, or malfeasance in office, including without limiting the generality of the foregoing, failure to comply with rules, regulations, and orders issued by the Public Service Commission.
- (2) No such order of removal with respect to any water commissioner shall be entered by the Public Service Commission until a public hearing on the merits with reference to such matter has been held by the commission, at which hearing the water commissioner proposed to be removed from office shall be afforded the opportunity to appear, either pro se, or by counsel and file briefs, memoranda and motions, cross-examine witnesses, examine exhibits, and present evidence, both orally and in writing. All such orders of removal entered by the Public Service Commission shall be final and shall not be subject to appeal. Any water commissioner may waive such public hearing, in which case an order on removal may be forthwith entered by the commission.
- (3) Using procedures of this section the Public Service Commission may also request the removal of directors, trustees or other governing persons of water associations in like manner.

History: Created 1972 Ky. Acts ch. 310, sec. 3.

74.460 Organization of commission -- Powers and duties -- Authority to acquire water supply -- Obligations.

The commission shall organize by appointing a chairman from its own members and a secretary and a treasurer, who need not be commissioners. The secretary shall keep a record of all proceedings of the commission which shall be available for inspection as other public records. The treasurer shall be the lawful custodian of all funds of the commission and shall pay same out on orders authorized or approved by the commission. The secretary and treasurer shall perform other duties appertaining to the affairs of the commission and shall receive the salaries prescribed by the commission, and either or both may be required to furnish bonds in sums to be fixed by the commission for the use and benefit of the commission. The commission shall adopt its own rules of procedure and provide for its meetings. The commission shall have full and complete supervision, management, and control of the sources of supply of water as provided in the ordinances or resolutions for acquiring and operating them, and in their maintenance, operation, and extension. The commission may contract with cities, water associations, water districts, or federal agencies which are represented by the commission for furnishing a supply of water to the parties for a period not exceeding fifty (50) years and the governing bodies of the cities, water associations, water districts, or federal agencies may enter into the contracts with the commission. For the purpose of acquiring all or any part of its sources of supply of water, the commission may purchase from cities, water associations, water districts, or federal agencies which are represented by the commission for mutually agreed terms without regard to actual value any sources of supply of water separate and apart from the water distribution systems of the parties; and the cities, water associations, water districts, or federal agencies may convey the sources of supply of water to the commission without any election or voter approval notwithstanding any provision of any other law to the contrary. If any city, water association, or water district has outstanding any obligations which by their terms are in any manner payable from the revenues of their waterworks distribution system, the proceeds received from any conveyance shall be sufficient to retire all of the outstanding obligations, including all interest accrued and to accrue thereon to the date of retirement thereof; and the proceeds when received shall be set aside in a special fund and used for that purpose. The commission may appoint or contract for the services of officers, agents, and employees, including engineers, attorneys, accountants, fiscal agents, and other professional persons, prescribe their duties, and fix their compensation.

Effective: June 24, 2003

History: Amended 2003 Ky. Acts ch. 167, sec. 5, effective June 24, 2003. -- Amended 1996 Ky. Acts ch. 122, sec. 5, effective July 15, 1996. -- Created 1960 Ky. Acts ch. 207, sec. 5, effective June 16, 1960.

74.470 Authority to issue revenue bonds.

For the purpose of acquiring, either by purchase or construction, sources of supply of water or for making improvements and extensions to sources of supply of water, a commission may issue revenue bonds payable solely from the revenues to be derived pursuant to water supply contracts with the cities, water districts, water associations, federal agencies, political subdivisions, or other public bodies as provided in KRS 74.420 to 74.520. For that purpose the commission may issue revenue bonds and be vested with all of the powers, duties, and responsibilities, including the power of condemnation, delegated and granted to a "governmental agency" under the terms and provisions of KRS Chapter 58, as the law now exists or as it may hereafter be amended. Under the law, the term "governmental agency" means the "commission" and the term "public project" means "sources of supply of water."

Effective: June 24, 2003

History: Amended 2003 Ky. Acts ch. 167, sec. 6, effective June 24, 2003. -- Amended 1996 Ky. Acts ch. 122, sec. 6, effective July 15, 1996. -- Created 1960 Ky. Acts ch. 207, sec. 6, effective June 16, 1960.

74.480 Exclusive water supply -- Basis for establishing rate, charges.

- (1) When a commission has been created, the cities, water associations, water districts, or federal agencies represented by the commission shall contract with the commission for water and the contracts may provide that the sources of supply of water of the commission shall be the exclusive water supply for the respective water distribution systems. These cities, water associations, or water districts shall establish charges and rates for water supplied by them to consumers sufficient at all times:
 - (a) To pay the principal of and interest on all outstanding obligations of the cities, water associations, or water districts which by their terms are payable in any manner from the revenues of their respective waterworks distribution systems; and
 - (b) To pay the cost of operation and maintenance of their respective waterworks distribution systems, including the payments to be made to the commission pursuant to contracts for the purchase of water by those cities, water associations, or water districts.
- (2) The commission shall establish charges and rates for water supplied to those cities, water associations, water districts, or federal agencies represented by the commission sufficient at all times:
 - (a) To pay the principal of and interest on the revenue bonds issued by the commission under the provisions of KRS 74.420 to 74.520;
 - (b) To pay the cost of operation and maintenance of the sources of supply of water; and
 - (c) To provide an adequate fund for renewals, replacements, and reserves.

Contracts entered into between the commission and the cities, water associations, or water districts shall include covenants for the establishment of rates and charges as provided in this section.

Effective: June 24, 2003

History: Amended 2003 Ky. Acts ch. 167, sec. 7, effective June 24, 2003. -- Amended 1996 Ky. Acts ch. 122, sec. 7, effective July 15, 1996. -- Created 1960 Ky. Acts ch. 207, sec. 7, effective June 16, 1960.

74.490 Commission may contract to supply other public bodies.

The commission shall also have the right to supply water to any city, water association, water district, political subdivision, federal agency or other public body, or any water distribution system regulated by the Public Service Commission, in addition to the cities, water associations, water districts, or federal agencies which are represented by the commission, upon the payments, terms, and conditions mutually agreed upon. No capital expenditures shall be made by the commission for the purpose of furnishing water to the other party or parties. Any contract entered into to supply water to a city, water association, water district, federal agency, political subdivision, or other public body shall provide that payments to be made thereunder shall be solely from the revenues to be derived by the city, water association, water district, political subdivision, or other public body from the operation of the water works distribution system thereof; and the contract shall be a continuing, valid, and binding obligation of the city, water association, federal agency, water district, political subdivision, or other public body, payable from the revenues for a period of years, not to exceed fifty (50), as provided in the contract. Any contract shall not be a debt of any city, water association, water district, federal agency, political subdivision, or other public body within the meaning of any statutory or constitutional limitations.

Effective: June 24, 2003

History: Amended 2003 Ky. Acts ch. 167, sec. 8, effective June 24, 2003. -- Amended 1996 Ky. Acts ch. 122, sec. 8, effective July 15, 1996. -- Created 1960 Ky. Acts ch. 207, sec. 8, effective June 16, 1960.

74.500 Procedure for participation by other city or water districts.

After the creation of a water commission provided for by KRS 74.420 to 74.520, a city or water district which did not participate in the creation of said commission may participate in its operation and appoint a commissioner to serve on said commission in the following manner:

- (1) The governing body of such city or water district shall adopt and file with the county judge/executive who entered the order creating said commission an ordinance or resolution electing and requesting that it be permitted to be included in and represented by said commission in the same manner and to the same extent as if said city or water district had originally participated in the creation of said commission.
- (2) Upon such filing the county judge/executive shall by appropriate order set a date for a public hearing on the inclusion of such a city or water district in said commission, and shall give notice of such public hearing in the manner as provided by KRS 74.440. Any resident of the city or water district at the time represented by said commission, and any resident of the city or water district requesting to be included in and represented by said commission and to participate in its operation, may file objections, and at the public hearing if the county judge/executive finds that the inclusion of such city or water district in said commission is reasonably necessary or advantageous for the public health, convenience and comfort of the residents of all cities and water districts represented by said commission, including the city or water district requesting to be included in said commission, and provided further that there shall be on file with the county judge/executive a resolution adopted by said commission evidencing its willingness to have such city or water district included in and represented by said commission the county judge/executive shall make an order authorizing the inclusion of such city or water district in the commission. If the county judge/executive does not find that the inclusion of such city or water district is reasonably necessary or advantageous he shall make an appropriate order in this regard. Any party in interest may thereupon appeal to the Circuit Court.
- (3) Upon the entering of the order by the county judge/executive authorizing the inclusion of such city or water district in said commission the number of commissioners, if any, to be appointed to said commission by the county judge/executive shall be reduced by one (1) and the presiding officer, with the approval of the governing body of the city or water district which shall by virtue of said proceedings be included in and represented by said commission, shall appoint a commissioner whose term shall begin at the expiration of the term of the commissioner appointed by the county judge/executive whose term shall first expire. In the event there is no commissioner on said commission appointed by the county judge/executive the term of the commissioner appointed by the presiding officer of such city or water district shall be fixed so that the terms of approximately one-third (1/3) of the commissioners will expire in each year.

Effective: June 17, 1978

History: Amended 1978 Ky. Acts ch. 384, sec. 194, effective June 17, 1978. -- Created 1960 Ky. Acts ch. 207, sec. 9, effective June 16, 1960.

74.510 Commission declared not to constitute a utility.

Since the activities of a commission created pursuant to KRS 74.420 to 74.520 are limited to the supply of water under contract to cities, federal agencies, or to water distribution systems which are regulated by the Public Service Commission, including water districts and water associations, as provided in KRS 74.420 to 74.520, and such a commission has no authority to supply water to individual private consumers, such a commission shall not be deemed to constitute a "utility" or "person" within the meaning and application of KRS Chapter 278 and a commission shall not be subject to the jurisdiction of the Public Service Commission.

Effective: June 24, 2003

History: Amended 2003 Ky. Acts ch. 167, sec. 9, effective June 24, 2003. -- Amended 1996 Ky. Acts ch. 122, sec. 9, effective July 15, 1996. -- Created 1960 Ky. Acts ch. 207, sec. 10, effective June 16, 1960.

74.520 Construction of KRS 74.420 to 74.520.

KRS 74.420 to 74.520 shall constitute full and complete authority for the creation of water commissions and for carrying out the powers and duties of same as provided in KRS 74.420 to 74.520. The provisions of KRS 74.420 to 74.520 shall be liberally construed to accomplish its purpose and no procedure or proceedings, notices, consents or approvals, shall be required in connection therewith except as may be prescribed by KRS 74.420 to 74.520. Every water commission organized under KRS 74.420 to 74.520 is declared to be a public body created and functioning in the interest and for the benefit of the public, and its property and income and any bonds issued by it and income therefrom shall be exempt from taxation.

Effective: June 16, 1960

History: Created 1960 Ky. Acts ch. 207, sec. 11, effective June 16, 1960.

74.990 Penalties.

Any collecting officer who fails to settle and pay any installment of assessments with interest, as and when provided by KRS 74.190, shall be liable to the commission for the full amount certified to him, with interest. Such amount may be collected from such collecting officer by order issued against him by the District Court, on five (5) days' notice in writing. The collecting officer shall be liable on his official bond for acts done under KRS 74.190, and for the faithful performance of his duties prescribed therein.

Effective: January 2, 1978

History: Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 66, effective January 2, 1978. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 938g-13.