



Steven L. Beshear
Governor

Leonard K. Peters
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
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David L. Armstrong
Chairman

James W. Gardner
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Charles R. Borders
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August 19, 2010

Re: House Bill 201

TO ALL WATER DISTRICTS IN THE COMMONWEALTH

On March 18, 2010, Governor Beshear signed House Bill 201 into law. This bill, which became effective on July 15, 2010, will significantly affect all water districts and those persons who are appointed to serve on water district boards of commissioners.

House Bill 201 does the following:

- It clarifies that the Public Service Commission (PSC) may remove a water district commissioner for cause pursuant to KRS 74.455. The PSC has possessed this authority since 1972, but the Statute Reviser's placement of the 1972 Act had created some confusion. House Bill 201 does not affect the authority of a county judge/executive and fiscal court to remove a water district commissioner.
- It provides that the PSC may appoint a water district commissioner to fill any vacancy on a water district's board of commissioners if the vacancy has not been filled within 90 days. Previously, the PSC could fill a vacancy only if it was the result of an expired term. House Bill 201 expands the PSC's appointment authority to include vacancies created by resignation or death or involuntary removal of an incumbent. Except as to vacancies existing more than 90 days, House Bill 201 will not affect the authority of a county judge/executive and fiscal court to appoint and approve water district commissioners.
- It requires the PSC to conduct or cause to be conducted at least once annually a program of instruction, 12 hours in length, intended to train newly appointed water district commissioners.

- It requires a water district to notify the PSC in writing within 30 days of the date a vacancy on its board of commissioners occurs.
- It requires a water district to notify the PSC in writing within 30 days of the appointment and approval of a person to fill a vacancy on a water district's board of commissioners.
- It requires newly appointed water district commissioners to attend new commissioner instruction within 12 months of their initial appointment. If a newly appointed commissioner fails to attend such instruction within 12 months of appointment, he or she forfeits the office. (This requirement does not apply to commissioners who are reappointed – only to initial appointment.)

Among its most significant provisions, House Bill 201 requires a water district to notify the PSC in writing of any vacancy on or appointment to its board of commissioners **within 30 days of the vacancy or appointment**. A water district's notice of a board vacancy should include the name of the commissioner who last held the office and the date of his or her appointment, the date on which the vacancy occurred, the date on which the unexpired term will end, the reason for the vacancy (e.g., resignation, death, removal, term expiration), and (for multi-county water districts) the county judge/executive who is responsible for appointing a successor. Notices of an appointment to a board of commissioners should contain the name of the appointee, the date of his or her appointment, the term of the appointment, the name of the commissioner who last held the office, the reason for the appointment (e.g., resignation, death, removal, term expiration), and (for multi-county water districts) the county judge/executive who made the appointment. It should also include a copy of the county judge/executive's appointment order and the minutes of the fiscal court meeting in which the appropriate fiscal court approved the appointment. **Notice should be provided to the PSC when a commissioner is reappointed.**

The PSC is establishing an electronic database to track water district commissioner appointments and vacancies. Eventually, this database will be accessible through the PSC's website and will allow water districts to report vacancies and appointments electronically and will permit public officials and the public to ascertain when vacancies exist or are about to occur. The PSC intends to use this database to highlight existing and pending vacancies and alert a county judge/executive of a vacancy before his or her authority to fill the vacancy lapses. The PSC believes that a water district is best managed when it has a full board of commissioners and that county officials are best suited to fill vacancies on these boards and should be afforded every opportunity to do so.

House Bill 201 also establishes a training requirement for newly appointed water district commissioners. Such commissioners must attend 12 hours of new commissioner instruction within 12 months of their first appointment to continue to hold their office. The PSC is establishing a program of instruction for new commissioners

that will include such topics as Open Records/Open Meetings Act, ethics, water quality laws, utility rate regulation, and budgeting and capital asset planning. The PSC expects this training to be conducted several times each year at various locations throughout the state. The first training is scheduled for October 5-6, 2010 at Rough River Dam State Resort Park. The PSC strongly encourages water districts to advise newly appointed water district commissioners at the time of their appointment of this obligation.

To provide real-time information on completion of the new commissioner training and attendance at certified water management training programs, the PSC is developing an electronic database to track water district commissioner training. This database will allow water district commissioners, public officials, and the public to ascertain whether water district commissioners have completed the new commissioner training requirement and attended sufficient training to qualify for higher compensation.

House Bill 201 can be viewed and downloaded at the Commission's website, <http://psc.ky.gov>. If you have any questions regarding this law or about the Commission's efforts to implement it, please contact Gerald Wuetcher, Executive Advisor, at (502) 564-3940, Extension 259.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Derouen".

Jeff Derouen
Executive Director