GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2015 REGULAR SESSION

HOUSE BILL NO. 408

AS ENACTED

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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

1 AN ACT relating to executive branch entities.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 153.410 is amended to read as follows:

4 (1) The Kentucky Center for the Arts Corporation is hereby established, and shall
5 consist of ***nineteen (19)***~~[fifteen (15)]~~ members representing metropolitan Louisville
6 and Kentucky to be appointed by the Governor, who shall also designate a
7 chairman. Initial terms shall be staggered; thereafter, members shall be appointed to
8 four (4) year terms.

9 (2) Members may be removed by the Governor only for cause after being afforded
10 notice, a hearing with counsel before the Governor or his designee, and a finding of
11 fact by the Governor. A copy of charges, transcript of the record of the hearings, and
12 findings of fact shall be filed with the Secretary of State.

13 (3) The Kentucky Center for the Arts Corporation shall be a body corporate with full
14 corporate powers. A quorum of the corporation shall consist of ***ten (10)***~~[eight (8)]~~
15 members, with a majority of members present authorized to act upon any matter
16 legally before the corporation. Full minutes and records shall be kept of all meetings
17 of the corporation and all official actions shall be recorded.

18 (4) The corporation may enact bylaws concerning the election of other officers, the
19 creation of an executive committee with full authority to act between regular
20 meetings, and the designation of alternates for members with full voting authority.

21 (5) The corporation shall be attached to the Tourism, Arts and Heritage Cabinet for
22 administrative purposes.

23 ➔Section 2. The General Assembly hereby confirms Executive Order 2014-585,
24 dated July 11, 2014, to the extent that it is not otherwise confirmed or superseded by
25 Section 1 of this Act.

26 ➔Section 3. KRS 56.777 is amended to read as follows:

27 (1) A High-Performance Buildings Advisory Committee is hereby created and shall be

1 administratively staffed by the cabinet.
2 (2) The committee shall consist of ***sixteen (16)***[~~fifteen (15)~~] members and shall include:
3 (a) A representative of the cabinet designated by the secretary;
4 (b) A representative of the Tourism, Arts and Heritage Cabinet designated by the
5 secretary;
6 (c) A representative of the Department of Education designated by the
7 commissioner;
8 (d) A representative of the Council on Postsecondary Education designated by the
9 president;
10 (e) A representative of the Department for Energy Development and
11 Independence designated by the commissioner; and
12 (f) A representative appointed by the Governor from each of the following:
13 1. The design and construction industry involved in public works
14 contracting;
15 2. The Kentucky Chapter of the U. S. Green Building Council;
16 3. The University of Kentucky College of Design;
17 4. The Kentucky Forest Industries Association;
18 5. The Kentucky Society of the American Institute of Architects;
19 6. The American Society of Heating, Refrigerating, and Air-Conditioning
20 Engineers;[~~ and~~
21 [~~7. The Home Builders Association of Kentucky;~~]
22 ***7.***[~~8.~~] The Associated General Contractors of Kentucky;
23 ***8.***[~~9.~~] The West Kentucky Construction Association;[~~ and~~]
24 ***9.***[~~10.~~] The Kentucky Manufactured Housing Institute***;***
25 ***10. The Kentucky Ready Mixed Concrete Association; and***
26 ***11. The Plantmix Asphalt Industry of Kentucky***.
27 (3) The representative of the cabinet shall serve as the chairperson of the committee.

1 All appointments shall be for a term of two (2) years. Committee members shall
2 serve until their successors are appointed and shall be eligible for reappointment.
3 (4) The committee shall meet at least monthly or as convened by the chairperson.
4 (5) The members of the committee shall receive reimbursement for the cost of travel to
5 and from the meetings and any costs necessarily incurred in carrying out their
6 duties.
7 (6) The committee shall:
8 (a) Consult with architects, engineers, builders, energy and conservation
9 organizations, and other interested stakeholders, and make recommendations
10 to the cabinet regarding:
11 1. Standards and benchmarks developed under existing high-performance
12 building programs, including the ENERGY STAR rating system, Green
13 Globes rating system, and Leadership in Energy and Environmental
14 Design (LEED) Green Building rating system; and
15 2. Standards and guidelines developed and adopted by the U.S. Green
16 Building Council, the American Society of Heating, Refrigerating and
17 Air-Conditioning Engineers, and the Illuminating Engineering Society of
18 North America partnership concerning the design of sustainable
19 buildings to balance environmental responsibility, resource efficiency,
20 occupant comfort and well-being, and community sensitivity;
21 (b) Assist the cabinet in the review of state building projects to ensure that
22 building performance and efficiency are maximized to the extent
23 economically feasible using a life-cycle cost analysis;
24 (c) Assist the cabinet in developing a process of documentation of the attainment
25 of high-performance building standards; and
26 (d) Assist the cabinet in conducting an ongoing professional development
27 program for state and local building designers, construction companies, school

1 districts, building managers, and the general public on high-performance
2 building design, construction, maintenance, and operation.
3 (7) Prior to the implementation of KRS 56.770 to 56.784, the cabinet shall promulgate
4 administrative regulations pursuant to KRS Chapter 13A necessary to implement
5 this section. The cabinet shall consider the recommendations made by the High-
6 Performance Buildings Advisory Committee pursuant to subsection (6) of this
7 section and shall establish the criteria for the high-performance building standards
8 and the benchmarks by which the high-performance building standards will be
9 measured. At a minimum, the cabinet shall:
10 (a) Include the standards for site selection and management, water efficiency,
11 energy conservation, waste reduction, material and resource use, and indoor
12 air quality; and
13 (b) Require that each high-performance building be designed, constructed, or
14 renovated so that it is capable of being rated as an ENERGY STAR building
15 in accordance with the criteria and rating system adopted by the United States
16 Environmental Protection Agency and in effect at the time the building is
17 designed or, in the case of leased buildings, at the time the lease is entered
18 into on or after July 1, 2018.
19 (8) In developing the criteria for the high-performance building standards, the cabinet
20 shall consider and encourage the use of:
21 (a) Locally grown lumber from forest lands implementing sustainable practices
22 established by the American Tree Farm System's Sustainable Forest Initiative
23 or the Kentucky Forest Stewardship Program established under KRS 149.330
24 to 149.355;
25 (b) Building materials manufactured with recycled content within the
26 Commonwealth; and
27 (c) Renewable energy sources.

1 ➔Section 4. KRS 227.450 is amended to read as follows:
2 As used in KRS 227.450 to 227.500 unless the context otherwise requires:
3 (1) ***"Alteration" means any change, modification, or adjustment to an existing***
4 ***electrical system or conduit;***
5 ***(2) "Commissioner" means the commissioner of the Department of Housing,***
6 ***Buildings and Construction;***
7 ***(3) "Division" means the Electrical Division within the Department of Housing,***
8 ***Buildings and Construction;***
9 ***(4)*** "Electrical contractor" means any licensed individual, partnership, or corporation
10 that is licensed to engage in, offers to engage in, or advertises or holds itself out to
11 be qualified to engage in designing, planning, superintending, contracting of, or
12 assuming responsibility for the installation, alteration, or repair of any electrical
13 ***system***[~~wiring~~] used for the purpose of furnishing heat, light, or power, and employs
14 electrical workers to engage in this practice. If the electrical contractor is not a
15 master electrician, the electrical contractor shall employ at least one (1) full-time
16 master electrician;
17 ***(5) "Electrical system" means any electrical work subject to standards provided***
18 ***within the National Electrical Code as adopted in the Uniform State Building***
19 ***Code, as promulgated by the Board of Housing, Buildings and Construction;***
20 ***(6)***[~~(2)~~] "Electrician" means any person licensed by the department who is employed
21 by an electrical contractor and is engaged in the construction, alteration, or repair of
22 any electrical ***system***[~~wiring~~] used for the purpose of furnishing heat, light, or
23 power;
24 ***(7)***[~~(3)~~] "Electrical" pertains to the installation, alteration, or repair of wires and
25 conduits for the purpose of transmitting electricity, and the installation of fixtures
26 and equipment in connection therewith;
27 ***(8)***[~~(4)~~] "Electrical inspector" means any person certified by the commissioner of

1 housing, buildings and construction pursuant to KRS 227.489 who, for
2 compensation, inspects the construction and installation of electrical conductors,
3 fittings, devices, and fixtures for light, heat, or power service equipment to ascertain
4 the compliance with the National Electrical Code incorporated in the Uniform State
5 Building Code promulgated pursuant to KRS 198B.050 or the standards of safety of
6 the Commonwealth of Kentucky;[~~ and~~]
7 ***(9)***[~~(5)~~] "Department" means the Department of Housing, Buildings and Construction***;***
8 ***and***
9 ***(10) "Repair" means the reconstruction or renewal of any part of an existing building***
10 ***for the purpose of its maintenance***.
11 ➔Section 5. KRS 227.480 is amended to read as follows:
12 (1) ***(a)*** A city, county, urban-county, charter county, or consolidated local
13 government ***or the state*** shall, according to the Uniform State Building Code
14 as it pertains to the plan review and inspection responsibilities of local
15 governments ***or the state***, require any person to obtain ***a permit***[~~permits~~]
16 before commencing construction, alteration, or repairs of any electrical
17 ***system***[~~wiring~~].
18 ***(b)*** The city, county, urban-county, charter county, or consolidated local
19 government ***or the state*** shall require all inspections that are deemed necessary
20 by the department for the safety of life and property. The department shall
21 promulgate administrative regulations to describe the circumstances where
22 inspections are required.
23 (2) A city, county, urban-county, charter county, or consolidated local government or
24 the state shall not issue a permit unless the applicant submits proof of being
25 licensed as an electrical contractor under KRS Chapter 227A or of acting on behalf
26 of a licensed electrical contractor. However, the provisions of this subsection shall
27 not apply to a homeowner or farmer who does construction, alteration, or repairs of

1 any electrical ***system***[~~wiring~~] on his or her own premises or any other person
2 exempt from licensing under KRS 227A.030 ***or KRS 227A.150***. This subsection
3 shall not apply to electrical work performed by the Commonwealth of Kentucky, a
4 city, county, urban-county, charter county, or consolidated local government, or any
5 subdivision thereof.
6 (3) A city, county, urban-county, charter county, or consolidated local government shall
7 appoint and may fix the compensation of city, county, urban-county, charter county,
8 or consolidated local government electrical inspectors, and may by ordinance fix
9 reasonable fees and establish other requirements for the conduct of electrical
10 inspections within its boundaries. All electrical inspectors must be certified under
11 KRS 227.489.
12 (4) Reasonable standards for the construction, alteration, and repair of any electrical
13 ***system***[~~wiring~~] shall be those adopted in the Uniform State Building Code, as
14 promulgated by the Board of Housing, Buildings and Construction, and shall have
15 as a minimum standard the requirements of the National ***Electrical***[~~Electric~~] Code.
16 These standards shall be used by the electrical inspector in making his inspections.
17 ➔Section 6. KRS 227.491 is amended to read as follows:
18 (1) An electrical inspector who certifies an electrical installation shall furnish and
19 attach an approval sticker, bearing his or her signature and certification number in a
20 conspicuous place on the main service entrance equipment. He or she shall also
21 provide the owner of the electrical installation or his or her authorized agent with a
22 certificate of approval if the same is requested. A complete record of each
23 inspection shall be kept by the inspector and these records shall be made available
24 to the Department of Housing, Buildings and Construction upon its request.
25 (2) ***An***[~~No~~] electrical inspector shall:
26 (a) ***Not*** attempt to supplant, overrule, or otherwise invalidate the judgment of
27 another electrical inspector whose services for a particular building, structure,

1 or other project have been solicited by an owner, contractor, municipality, or
2 other person without first obtaining express written consent from the
3 designated inspector's office supervising the original inspector;
4 (b) ***Not*** certify unlicensed or unlawful electrical installations;
5 (c) ***Not*** certify or inspect an electrical installation in a manufactured home or
6 mobile home where the certified installer seal is not present pursuant to KRS
7 227.570;~~[or]~~
8 (d) ***Not*** certify or inspect an electrical installation in a previously owned
9 manufactured home or a previously owned mobile home when a Class B1 seal
10 is not present as required by KRS 227.605***; and***
11 ***(e) Verify required electrical licensure on projects within the inspector's***
12 ***jurisdiction. The electrical inspector shall report all electrical licensure***
13 ***violations to the department within ten (10) days of discovery***.
14 (3) Failure of an electrical inspector to ***comply with any provision of this chapter or***
15 ***the administrative regulations promulgated thereunder***~~[observe subsection (2) of~~
16 ~~this section]~~ shall subject that inspector to review by the commissioner of housing,
17 buildings and construction with possible suspension of certification for a period not
18 to exceed one (1) year from the date of the commissioner's ruling.
19 ➔Section 7. KRS 227.530 is amended to read as follows:
20 (1) There is hereby created an Electrical Advisory Committee which shall be attached
21 to the Electrical Division within the Department of Housing, Buildings and
22 Construction for administrative purposes. The committee shall be constituted as
23 follows:
24 (a) Two (2) members chosen from public utility companies;
25 (b) Two (2) members who are electricians;
26 (c) Two (2) members who are certified electrical inspectors, one (1) of whom
27 shall be employed by a governmental entity and the other who shall be an

1 ***electrical inspector contracted to conduct inspections of***[~~independent~~
2 ~~contractor engaged in the business of inspecting~~] electrical installations;
3 (d) Two (2) members who are licensed professional electrical engineers;
4 (e) Two (2) members who are engaged in the business of electrical contracting;[
5 ~~and~~]
6 (f) One (1) member who is engaged in the business of electrical contracting and
7 who employs no more than five (5) full-time employees when appointed***; and***
8 ***(g) The commissioner of the Department of Housing, Buildings and***
9 ***Construction or his or her designee***.
10 (2) ***Appointed*** committee members shall be appointed by the Governor for four (4) year
11 terms. No committee member shall be appointed for more than one (1) successive
12 term.
13 (3) The committee shall meet at least quarterly or upon request of the department for
14 the purpose of considering matters relating to electrical installations and electrical
15 inspections. The committee shall have the opportunity to review and comment on
16 relevant administrative regulations that are subject to the requirements of KRS
17 198B.030(8) and (9) and 198B.040(11) and shall make recommendations to and
18 otherwise advise the department on these matters.
19 (4) All committee members shall be compensated for expenses incurred in the conduct
20 of Commonwealth business.
21 ➔Section 8. KRS 227A.010 is amended to read as follows:
22 As used in KRS 227A.010 to 227A.140, unless the context otherwise requires:
23 (1) "Authorized local licensing program" means any city, county, urban-county, charter
24 county, or consolidated local government electrician and electrical contractor
25 licensing program established by local ordinance for the purpose of licensing
26 electrical workers. "Authorized local licensing program" shall include a licensing
27 program established through a cooperative agreement between two (2) or more

1 counties;
2 (2) "Committee" means the Electrical Advisory Committee as described in KRS
3 227.530;
4 (3) "Department" means the Department of Housing, Buildings and Construction;
5 (4) "Electrical" pertains to the installation, alteration, or repair of wires and conduits for
6 the purpose of transmitting electricity, and the installation of fixtures and equipment
7 in connection therewith;
8 (5) "Electrical contractor" means any licensed individual, partnership, or corporation
9 that is licensed to engage in, offers to engage in, or advertises or holds itself out to
10 be qualified to engage in designing, planning, superintending, contracting of, or
11 assuming responsibility for the installation, alteration, or repair of any electrical
12 ***system***[~~wiring~~] used for the purpose of furnishing heat, light, or power, and employs
13 electrical workers to engage in this practice. If the electrical contractor is not a
14 master electrician, the electrical contractor shall employ at least one (1) full-time
15 master electrician; however, no master electrician shall act in this capacity for more
16 than one (1) electrical contractor;
17 ***(6) "Electrical system" means any electrical work subject to standards provided***
18 ***within the National Electrical Code as adopted in the Uniform State Building***
19 ***Code, as promulgated by the Board of Housing, Buildings and Construction;***
20 ***(7)***[~~(6)~~] "Electrician" means any person licensed by the department who is employed
21 by an electrical contractor and is engaged in the construction, alteration, or repair of
22 any electrical ***system***[~~wiring~~] used for the purpose of furnishing heat, light, or
23 power;
24 ***(8)***[~~(7)~~] "Maintenance worker or maintenance engineer" means a person who is a
25 regular, bona fide employee or agent of a property owner, property lessor, property
26 management company, or firm that is not in the electrical business but has
27 jurisdiction over the property where the routine maintenance of electrical systems is

1 being performed;

2 ***(9)***[~~(8)~~] "Master electrician" means any individual licensed to ***engage in, and*** assume
3 responsible charge, supervision, or direction of an electrician engaged in the
4 construction, installation, alteration, or repair of ***any*** electrical ***system***[~~wiring~~] used
5 to furnish heat, light, or power;

6 ***(10) "Repair" means the reconstruction or renewal of any part of an existing building***
7 ***for the purpose of its maintenance;*** and

8 ***(11)***[~~(9)~~] "Routine maintenance of electrical systems" means the routine and periodic
9 servicing of electrical systems, including cleaning, inspecting, and making
10 adjustments to ensure the proper operation and the removal or replacement of
11 component parts. "Routine maintenance of electrical systems" does not include the
12 installation of complete electrical systems.

13 ➔Section 9. KRS 45A.030 is amended to read as follows:

14 As used in this code, unless the context requires otherwise:

15 (1) "Business" means any corporation, partnership, individual, sole proprietorship, joint
16 stock company, joint venture, or any other legal entity through which business is
17 conducted;

18 (2) "Change order" means a written order signed by the purchasing officer, directing the
19 contractor to make changes that the changes clause of the contract authorizes the
20 purchasing officer to order without the consent of the contractor;

21 (3) "Chief purchasing officer" means the secretary of the Finance and Administration
22 Cabinet, who shall be responsible for all procurement of the Commonwealth except
23 as provided by KRS Chapters 175, 176, 177, and 180;

24 (4) "Construction" means the process of building, altering, repairing, improving, or
25 demolishing any public structures or buildings, or other public improvements of any
26 kind to any public real property. It does not include the routine maintenance of
27 existing structures, buildings, or real property;

1 (5) "Construction manager-agency" means services to assist the purchasing agency
2 manage construction that are procured through a contract that is qualifications-
3 based;
4 (6) "Construction management-at-risk" means a project delivery method in which the
5 purchasing officer enters into a single contract with an offeror that assumes the risk
6 for construction at a contracted guaranteed maximum price as a general contractor,
7 and provides consultation and collaboration regarding the construction during and
8 after design of a capital project. The contract shall be subject to the bonding
9 requirements of KRS 45A.190;
10 (7) ***"Construction manager-general contractor" means a project delivery method in***
11 ***which the purchasing officer enters into a single contract with an offeror to***
12 ***provide preconstruction and construction services. During the preconstruction***
13 ***phase, the successful offeror provides design consulting services. During the***
14 ***construction phase, the successful offeror acts as general contractor by:***
15 ***(a) Contracting with subcontractors; and***
16 ***(b) Providing for management and construction at a fixed price with a***
17 ***completion deadline;***
18 ***(8)*** "Contract" means all types of state agreements, including grants and orders, for the
19 purchase or disposal of supplies, services, construction, or any other item. It
20 includes awards; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive
21 type; contracts providing for the issuance of job or task orders; leases; letter
22 contracts; purchase orders; and insurance contracts except as provided in KRS
23 45A.022. It includes supplemental agreements with respect to any of the foregoing;
24 ***(9)***[~~(8)~~] "Contract modification" means any written alteration in the specifications,
25 delivery point, rate of delivery, contract period, price, quantity, or other contract
26 provisions of any existing contract, whether accomplished by unilateral action in
27 accordance with a contract provision or by mutual action of the parties to the

1 contract. It includes bilateral actions, such as supplemental agreements, and
2 unilateral actions, such as change orders, administrative changes, notices of
3 termination, and notices of the exercise of a contract option;
4 *(10)*[~~(9)~~] "Contractor" means any person having a contract with a governmental body;
5 *(11)*[~~(10)~~] "Data" means recorded information, regardless of form or characteristic;
6 *(12)*[~~(11)~~] "Design-bid-build" means a project delivery method in which the purchasing
7 officer sequentially awards separate contracts, the first for architectural,
8 engineering, or engineering-related services to design the project and the second for
9 construction of the capital project according to the design. The contract shall be
10 subject to the bonding requirements of KRS 45A.185;
11 *(13)*[~~(12)~~] "Design-build" means a project delivery method in which the purchasing
12 officer enters into a single contract for design and construction of a capital project.
13 The contract shall be subject to the bonding requirements of KRS 45A.190;
14 *(14)*[~~(13)~~] "Designee" means a duly authorized representative of a person holding a
15 superior position;
16 *(15)*[~~(14)~~] "Document" means any physical embodiment of information or ideas,
17 regardless of form or characteristic, including electronic versions thereof;
18 *(16)*[~~(15)~~] "Employee" means an individual drawing a salary from a governmental body,
19 whether elected or not, and any nonsalaried individual performing personal services
20 for any governmental body;
21 *(17)*[~~(16)~~] "Governmental body" means any department, commission, council, board,
22 bureau, committee, institution, legislative body, agency, government corporation, or
23 other establishment of the executive or legislative branch of the state government;
24 *(18)*[~~(17)~~] "Meeting" means all gatherings of every kind, including video
25 teleconferences;
26 *(19)*[~~(18)~~] "Negotiation" means contracting by either the method set forth in KRS
27 45A.085, 45A.090, or 45A.095;

1 *(20)*[~~(19)~~] "Person" means any business, individual, organization, or group of
2 individuals;
3 *(21)*[~~(20)~~] "Procurement" means the purchasing, buying, renting, leasing, or otherwise
4 obtaining of any supplies, services, or construction. It includes all functions that
5 pertain to the procurement of any supply, service, or construction item, including
6 description of requirements, selection and solicitation of sources, preparation and
7 award of contract, and all phases of contract administration;
8 *(22)*[~~(21)~~] "Purchase request" or "purchase requisition" means that document whereby a
9 using agency requests that a contract be obtained for a specified need, and may
10 include, but is not limited to, the technical description of the requested item,
11 delivery schedule, transportation, criteria for evaluation of solicitees, suggested
12 sources of supply, and information supplied for the making of any written
13 determination and finding required by KRS 45A.025;
14 *(23)*[~~(22)~~] "Purchasing agency" means any governmental body that is authorized by this
15 code or its implementing administrative regulations or by way of delegation from
16 the chief purchasing officer to contract on its own behalf rather than through the
17 central contracting authority of the chief purchasing officer;
18 *(24)*[~~(23)~~] "Purchasing officer" means any person authorized by a governmental body in
19 accordance with procedures prescribed by administrative regulations to enter into
20 and administer contracts and make written determinations and findings with respect
21 thereto. The term includes an authorized representative acting within the limits of
22 authority;
23 *(25)*[~~(24)~~] "Services" means the rendering by a contractor of its time and effort rather
24 than the furnishing of a specific end product, other than reports that are merely
25 incidental to the required performance of services;
26 *(26)*[~~(25)~~] "Supplemental agreement" means any contract modification that is
27 accomplished by the mutual action of the parties;

1 ***(27)***[~~(26)~~] "Supplies" means all property, including but not limited to leases of real
2 property, printing, and insurance, except land or a permanent interest in land;
3 ***(28)***[~~(27)~~] "Using agency" means any governmental body of the state that utilizes any
4 supplies, services, or construction purchased under this code;
5 ***(29)***[~~(28)~~] "Video teleconference" means one (1) meeting, occurring in two (2) or more
6 locations, where individuals can see and hear each other by means of video and
7 audio equipment; and
8 ***(30)***[~~(29)~~] "Writing" or "written" means letters, words, or numbers, or their equivalent,
9 set down by handwriting, typewriting, printing, photostating, photographing,
10 magnetic impulse, mechanical or electronic recording, or other form of data
11 compilation.
12 ➔Section 10. KRS 45A.180 is amended to read as follows:
13 (1) The secretary of the Finance and Administration Cabinet shall promulgate
14 administrative regulations by October 15, 2003, providing for as many alternative
15 methods of management of construction contracting as he or she may determine to
16 be feasible; setting forth criteria to be used in determining which method of
17 management of construction is to be used for a particular project; establishing a
18 model process parallel to the selection committee procedures established in
19 45A.810 for the procurement of alternative project services of "construction
20 management-at-risk" and "design-build," and for a ***"construction manager-general***
21 ***contractor" and a*** "construction manager-agency;" and providing that the chief
22 purchasing officer shall execute and include in the contract file a written statement
23 setting forth the facts recommending that a particular method of management of
24 construction contracting be used. The administrative regulations shall include the
25 establishment of:
26 (a) The relative weighing between qualifications and price, including the
27 reciprocal preference for resident bidders required under KRS 45A.494; and

1 (b) The level of stipend, if any, available for the various types of projects.
2 (2) When a request for proposal for a project utilizing an alternative project delivery
3 method is issued, the contracting body shall transmit a copy of the request for
4 proposal to the Capital Projects and Bond Oversight Committee staff.
5 (3) Upon issuance of the contract for a project utilizing an alternative project delivery
6 method, the contracting body shall submit the contract to the Government Contract
7 Review Committee for review in accordance with KRS 45A.690 to 45A.725. The
8 contracting body shall insure the contract clearly identifies to the committee that an
9 alternative project delivery method is being utilized. Upon disapproval of or
10 objection to the contract by the committee, the contracting body shall determine
11 whether the contract shall be revised to comply with the objections of the
12 committee, be canceled, or remain in effect. Subsequent contract amendments
13 relating to change orders shall not be required to be submitted to the Government
14 Contract Review Committee.
15 (4) A request for proposal for a project utilizing an alternative project delivery method
16 under this section shall specifically state the evaluation factors and the relative
17 weight of each to be used in the scoring of awards.
18 (5) Any governing body of a postsecondary institution that manages its capital
19 construction program under KRS 164A.580 shall adhere to the regulations
20 promulgated under this section when utilizing an alternative project delivery
21 method for capital projects, and shall report to legislative committees as specified in
22 this section.
23 (6) Any corporation as described by KRS 45.750(2)(c) or as created under the
24 Kentucky Revised Statutes as a governmental agency and instrumentality of the
25 Commonwealth that manages its capital construction program shall adhere to the
26 regulations promulgated under this section when utilizing an alternative project
27 delivery method for capital projects, and shall report to legislative committees as

1 specified in this section.

2 ➔Section 11. KRS 45A.183 is amended to read as follows:

3 *(1)* When a capital project is to be constructed ***using***[~~utilizing~~] the construction
4 management-at-risk method, a process parallel to the selection committee
5 procedures established in KRS 45A.810 shall apply when procuring a construction
6 management-at-risk firm and regulations promulgated in accordance with KRS
7 45A.180 shall apply that set forth requirements for:

8 *(a)*[~~(1)~~] Description of the bond, insurance, and other security provisions that
9 apply to a project;

10 *(b)*[~~(2)~~] Description of appropriate contract clauses and fiscal responsibility
11 requirements that apply to each project; and

12 *(c)*[~~(3)~~] Restrictions relating to conflicts of interest, including a provision that a
13 construction management-at-risk entity shall be eligible to become an offeror
14 of goods or services on a project it manages only when a subcontractor fails to
15 perform and upon prior approval by the contracting body.

16 ***(2) (a) When a construction project is to be constructed using the construction***
17 ***manager-general contractor method, a competitive process consistent with***
18 ***this code established by administrative regulations promulgated under***
19 ***Section 10 of this Act shall apply.***

20 ***(b) The procurement process shall set forth the requirements for:***

21 ***1. Description of the bond, insurance, and other security provisions that***
22 ***apply to the project;***

23 ***2. Description of appropriate contract clauses and fiscal responsibility***
24 ***requirements that apply to the project; and***

25 ***3. Restrictions relating to conflicts of interest, including a provision that***
26 ***a construction manager-general contractor shall be eligible to become***
27 ***an offeror of goods or services on a project it manages only when a***

1 ***subcontractor fails to perform and upon prior approval by the***
2 ***contracting body.***
3 ***(c) The selection of the construction manager-general contractor shall be based***
4 ***on:***
5 ***1. Qualifications; and***
6 ***2. Price, including preconstruction consulting services, overhead, and***
7 ***profit.***
8 ***(d) Prior to the construction phase, the construction manager-general***
9 ***contractor shall competitively bid the subcontracts by public notice and***
10 ***award each subcontract to the lowest responsive and responsible bidder.***
11 ***(e) The final construction cost and completion date for the project shall be***
12 ***established by change order after the construction manager-general***
13 ***contractor enters into all applicable subcontracts.***
14 ➔Section 12. KRS 45A.837 is amended to read as follows:
15 (1) Notwithstanding the provisions of KRS 45A.800 to 45A.835, the Finance and
16 Administration Cabinet and the Transportation Cabinet may enter into price
17 contracts for architectural, engineering, and engineering-related services. If the
18 agencies choose to enter into a price contract, subsection (2) of this section shall
19 apply.
20 (2) Price contracts shall be awarded to firms qualified by the Finance and
21 Administration Cabinet, Department of Facilities Management or by the
22 Transportation Cabinet, Department of Highways. The Finance and Administration
23 Cabinet selection committee established by KRS 45A.810 shall meet at least
24 quarterly during each fiscal year to review and make recommendations to the
25 commissioner of the Department for Facilities Management for qualification of
26 interested firms. The Transportation Cabinet selection committee established by
27 KRS 45A.810 shall meet at least quarterly during each fiscal year to review and

1 make recommendations to the commissioner of the Department of Highways for
2 qualification of interested firms.
3 (a) The respective committees shall evaluate those firms submitting statements of
4 interest in obtaining a price contract. The submitting firms shall be reviewed
5 according to the following criteria:
6 1. Qualifications;
7 2. Ability of professional personnel; and
8 3. Past record and experience.
9 (b) Firms qualified by the commissioner of the Department for Facilities
10 Management or by the commissioner of the Department of Highways shall be
11 awarded price contracts by the respective departments for the type of work for
12 which they have been qualified.
13 (c) The commissioner of the Department for Facilities Management or the
14 commissioner of the Department of Highways may select firms to perform
15 work under price contract for small projects for which the architectural,
16 engineering, or engineering-related fees do not exceed ***seventy-five thousand***
17 ***dollars ($75,000)***[~~fifty thousand dollars ($50,000)~~]. However, no firm that has
18 received more than ***one hundred fifty thousand dollars ($150,000)***[~~one~~
19 ~~hundred thousand dollars ($100,000)~~] in price contract fees in any one (1)
20 fiscal year in the contract discipline being awarded shall be selected to work
21 under a price contract unless the secretary of finance and administration or the
22 secretary of transportation makes a written determination that the selection is
23 in the best interest of the Commonwealth and the determination is confirmed
24 by the appropriate cabinet's selection committee established by KRS 45A.810.
25 (3) Notwithstanding any provision of the Kentucky Revised Statutes, no price contract
26 shall be awarded under the provisions of this section before completion of the
27 review procedure provided for in KRS 45A.695 and 45A.705.

1 ➔Section 13. KRS 164A.575 is amended to read as follows:
2 (1) The governing boards of each institution may elect to purchase interest in real
3 property, contractual services, rentals of all types, supplies, materials, equipment,
4 printing, and services, except that competitive bids may not be required for:
5 (a) Contractual services where no competition exists;
6 (b) Food, clothing, equipment, supplies, or other materials to be used in
7 laboratory and experimental studies;
8 (c) Instructional materials available from only one (1) source;
9 (d) Where rates are fixed by law or ordinance;
10 (e) Library books;
11 (f) Commercial items that are purchased for resale;
12 (g) Professional, technical, scientific, or artistic services, but contracts shall be
13 submitted in accordance with KRS 45A.690 to 45A.725;
14 (h) All other commodities, equipment, and services which, in the reasonable
15 discretion of the board, are available from only one (1) source; and
16 (i) Interests in real property.
17 (2) Nothing in this section shall deprive the boards from negotiating with vendors who
18 maintain a General Services Administration price agreement with the United States
19 of America or any agency thereof, provided, however, that no contract executed
20 under this provision shall authorize a price higher than is contained in the contract
21 between General Services Administration and the vendor affected.
22 (3) The governing board shall require the institution to take and maintain inventories of
23 plant and equipment.
24 (4) The governing board shall establish procedures to identify items of common general
25 usage among all departments to foster volume purchasing. It shall establish and
26 enforce schedules for purchasing supplies, materials, and equipment.
27 (5) The governing board shall have power to salvage, to exchange, and to condemn

1 supplies, equipment, and real property.
2 (6) Upon the approval of the secretary of the Finance and Administration Cabinet, the
3 governing board may purchase or otherwise acquire all real property determined to
4 be needed for the institution's use. The amount paid shall not exceed the appraised
5 value as determined by a qualified appraiser or the value set by the eminent domain
6 procedure. Any real property acquired under this section shall be in name of the
7 Commonwealth for the use and benefit of the institution.
8 (7) The governing board shall sell or otherwise dispose of all real or personal property
9 of the institution which is not needed or has become unsuitable for public use, or
10 would be more suitable consistent with the public interest for some other use, as
11 determined by the board. The determination of the board shall be set forth in an
12 order, and shall be reached only after review of a written request by the institution
13 desiring to dispose of the property. Such request shall describe the property and
14 state the reasons why the institution believes disposal should be effected. All
15 instruments required by law to be recorded which convey any interest in any such
16 real property so disposed of shall be executed and signed by the appropriate officer
17 of the board. Unless the board deems it in the best interest of the institution to
18 proceed otherwise, all such real or personal property shall be sold either by
19 invitation of sealed bids or by public auction; provided, however, that the selling
20 price of any interest in real property shall not be less than the appraised value
21 thereof as determined by the Finance and Administration Cabinet or the
22 Transportation Cabinet for such requirements of that department.
23 (8) Real property or any interest therein may, subject to the provisions of KRS Chapter
24 45A, be purchased, leased, or otherwise acquired from any officer or employee of
25 any board of the institution, based upon a written application by the grantor or
26 lessor approved by the board, that the employee has not either himself or through
27 any other person influenced or attempted to influence either the board requesting the

1 purchase of the property. In any case in which such an acquisition is consummated,
2 the said request and finding shall be recorded and kept by the Secretary of State
3 along with the other documents recorded pursuant to the provisions of KRS Chapter
4 56.
5 (9) (a) As used in this section, "construction manager-agency," "construction
6 management-at-risk," "design-bid-build,"~~[and]~~ "design-build,"***and***
7 ***"construction manager-general contractor"*** shall have the same meaning as
8 in KRS 45A.030.
9 (b) For capital construction projects, the procurement may be on a total design-
10 bid-build basis, a design-build basis, ***construction manager-general***
11 ***contractor basis,*** or construction management-at-risk basis, whichever in the
12 judgment of the board offers the best value to the taxpayer. Best value shall be
13 determined in accordance with KRS 45A.070. Proposals shall be reviewed by
14 the institution's engineering staff to assure quality and value, and compliance
15 with procurement procedures. All specifications shall be written to promote
16 competition. Services for projects delivered on the design-build basis,
17 ***construction manager-general contractor basis,*** or construction
18 management-at-risk basis shall be procured in accordance with KRS 45A.180,
19 ***Section 11 of this Act,*** and the regulations promulgated in accordance with
20 KRS 45A.180. Nothing in this section shall prohibit the procurement of
21 construction manager-agency services.
22 (10) The governing board shall attempt in every practicable way to insure the
23 institution's supplying its real needs at the lowest possible cost. To accomplish this
24 the board may enter into cooperative agreements with other public or private
25 institutions of education or health care.
26 (11) The governing board shall have control and supervision over all purchases of energy
27 consuming equipment, supplies, and related equipment purchased or acquired by

1 the institution, and shall designate by regulation the manner in which an energy
2 consuming item will be purchased so as to promote energy conservation and
3 acquisition of energy efficient products.
4 (12) The governing board may negotiate directly for the purchase of contractual services,
5 supplies, materials, or equipment in bona fide emergencies regardless of estimated
6 costs. The existence of the emergency must be fully explained, in writing, by the
7 vice president responsible for business affairs and such explanation must be
8 approved by the university president. The letter and approval shall be filed with the
9 record of all such purchases. Where practical, standard specifications shall be
10 followed in making emergency purchases. A good faith effort shall be made to
11 effect a competitively established price for emergency purchases.
12 (13) (a) All governing boards that purchase agricultural products, as defined by KRS
13 45A.630, shall, on or before January 1 of each year, provide a report to the
14 Legislative Research Commission and to the Department of Agriculture
15 describing the types, quantities, and costs of each product purchased. The
16 report shall be completed on a form provided by the department.
17 (b) If purchasing agricultural products, a governing board shall encourage the
18 purchase of Kentucky-grown agricultural products in accordance with KRS
19 45A.645. If a governing board purchases agricultural products through a
20 contract with a vendor or food service provider, the contract shall require that
21 if Kentucky-grown agricultural products are purchased, the products shall be
22 purchased in accordance with KRS 45A.645. Only contracts entered into or
23 renewed after July 15, 2008, shall be required to comply with the provisions
24 of this subsection.
25 (c) All governing boards that purchase Kentucky-grown agricultural products
26 shall, on or before January 1 of each year, provide a report to the Legislative
27 Research Commission and to the Department of Agriculture describing the

1 types, quantities, and costs of each product purchased. The report shall be
2 completed on a form provided by the department.
3 (14) Governing boards shall apply the reciprocal resident bidder preference described in
4 KRS 45A.494 prior to the award of any contract.
5 (15) Governing boards may authorize the use of reverse auctions as defined in KRS
6 45A.070 for the procurement of goods and leases.
7 ➔Section 14. KRS 164A.580 is amended to read as follows:
8 Subject to the provisions of KRS 45.750 through 45.800, 45A.180, ***Section 11 of this***
9 ***Act,*** and 56.870 to 56.874, the governing board of each institution may provide for the
10 management and administration of capital construction projects authorized for such
11 institution including, but not limited to:
12 (1) The procurement of necessary consulting services;
13 (2) The supervision and control of the making of all contracts for building projects,
14 renovation projects, repair projects, and supervision of same;
15 (3) The prescription of the amount and form of evidences of indebtedness submitted in
16 connection with bids and contracts when not otherwise provided by law;
17 (4) The preparation of plans and specifications for any construction, alteration, or
18 enlargement of buildings, structures, and other improvements;
19 (5) The advertisement of bids and the awarding of contracts in connection with such
20 projects;
21 (6) The supervision and inspection of all related work;
22 (7) The approval of changes in plans or specifications; and
23 (8) The acceptance of such improvements when completed according to such plans and
24 specifications.
25 ➔Section 15. KRS 164A.595 is amended to read as follows:
26 Capital construction projects shall be carried out as follows:
27 (1) Subject to the provisions of KRS 45.750 through 45.800,~~[and]~~ 45A.180, ***and***

1 ***Section 11 of this Act,*** the governing boards of the institutions may acquire, erect,
2 construct, reconstruct, improve, rehabilitate, remodel, repair, complete, extend,
3 enlarge, equip, furnish, and operate any buildings, structures, improvements, or
4 facilities, including any utilities, other related services and appurtenances and land
5 required as the respective governing boards shall deem necessary for carrying on the
6 educational, research or public service programs or discharging the statutory
7 responsibilities of the universities and colleges and various divisions under the
8 jurisdiction of the boards, or for the management, operation, or servicing of the
9 universities and colleges.
10 (2) The governing boards may acquire real or personal property, by purchase, lease,
11 sublease, condemnation, trade or exchange, gift, devise, or otherwise, and improve
12 such property whenever in the judgment of the governing board it shall be
13 necessary. The title to any real estate acquired under this section shall vest in the
14 Commonwealth for the use and benefit of the appropriate institution.

Speaker-House of Representatives

President of Senate

Attest: Chief Clerk of House of Representatives

Approved Governor

Date 4-1-15