

96.533 Director of utility board or commission.

- (1) This section and the applicable provisions of KRS 65.200 to 65.2006 shall apply to any director of any municipal utility board or commission created or operated pursuant to KRS Chapter 96.
- (2) A director shall discharge his duties as a director, including his duties as a member of a committee:
 - (a) In good faith;
 - (b) On an informed basis; and
 - (c) In a manner he honestly believes to be in the best interest of the utility board or commission.
- (3) A director shall discharge his duties on an informed basis if he makes inquiry, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, into the business and affairs of the utility board or commission, or into a particular action to be taken or decision to be made.
- (4) In discharging his duties, a director may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:
 - (a) One (1) or more officers or employees of the utility board or commission whom the director honestly believes to be reliable and competent in the matters presented;
 - (b) Legal counsel, public accountants, or other persons as to matters the director honestly believes are within the person's professional or expert competence; or
 - (c) A committee of the board of directors of which he is not a member if the director honestly believes the committee merits confidence.
- (5) A director shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (4) of this section unwarranted.
- (6) Any action taken as a director, or any failure to take any action as a director, shall not be the basis for monetary damages or injunctive relief unless:
 - (a) The director has breached or failed to perform the duties of the director's office in compliance with this section; and
 - (b) In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety or property.
- (7) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of subsection (6)(a) and (b) of this section, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered.
- (8) Nothing in this section shall eliminate or limit the liability of any director for any act or omission occurring prior to July 15, 1988.

Effective: July 15, 1988

History: Created 1988 Ky. Acts ch. 224, sec. 25, effective July 15, 1988.