

107.080 Construction contracts -- Bids -- Performance bond -- Wastewater collection project assessments -- Bonds.

- (1) Proposals for the construction of the project shall be solicited upon the basis of the submission of sealed competitive bids after advertisement, by publication pursuant to KRS Chapter 424. Upon or after the acceptance by the governing body of a bid, or combination of bids, the governing body may determine the principal amount of bonds to be issued for the proposed project, taking into account the amount of the accepted bid or bids, and all other costs of the project, as herein defined. Each contract shall be supported by a performance bond for the full amount thereof, with good surety to be approved by the governing body. In the construction of a wastewater collection project by a metropolitan sewer district, if the provisions of KRS 107.070 are met, proposals for the construction of the project shall be solicited upon the basis of submission of sealed, competitive bids after advertisement by publication pursuant to KRS Chapter 424. The district may authorize assessment levies, lump-sum payments and issuance of bonds for a project based upon estimates of construction costs or based upon partial bidding, if a determination is made that the entire project may not be feasibly bid for construction prior to authorization and issuance of bonds. Notwithstanding the foregoing, the project shall be constructed only upon or after the acceptance by the board of a competitive bid or a combination of competitive bids for construction of the project. Each contract for construction shall be supported by a performance bond for the full amount with good corporate surety to be approved by the board of the district.
- (2) After all costs of a wastewater collection project undertaken by a metropolitan sewer district have been determined in accordance with this section the costs shall be apportioned among the owners of benefited property by the method of assessment previously determined in the first ordinance and the second ordinance. However, in determining the apportionment of individual costs for purposes of allowing the owners of benefited property the privilege of paying such assessment levied in full on a lump-sum basis, the district shall exclude amounts required for the creation of the debt service reserve fund, capitalized interest cost, and any bond discount which the district may allow in connection with the sale of bonds to provide funds for the cost of construction not paid initially by the owners of benefited properties on a lump-sum basis. In calculating the assessment amount to be paid by a property owner on a lump-sum basis, the district shall take into account the amount of interest the lump-sum payment may accrue in the trust account required by subsection (4) of this section between the time of the owner's payment and the time the construction of the collector portion of the project is completed and ready for use by the assessed property and shall reduce the amount of the lump-sum payment accordingly.
- (3) The owners of benefited property in wastewater collection projects undertaken by a metropolitan sewer district shall be notified in writing of the exact amount levied by the district against their individual properties. Owners may pay the amount levied in full within ninety (90) days. Owners shall be notified that if the costs of construction of the original project exceed assessments financed by both lump-sum

payments and bond proceeds, additional assessments of costs will be made and that all owners who paid the initial improvement benefit assessment on a lump-sum basis must likewise pay any additional assessment on such basis. The statement shall also advise the owners that if the owners do not elect to pay the special improvement benefit assessment in full within the period of ninety (90) days from receipt, the district shall issue bonds pursuant to KRS Chapters 76 and 107 for the purpose of providing the costs of construction of the project, including the debt service reserve fund, if paid from bond proceeds, capitalized interest costs, any bond discount, together with all other costs, as such term is defined in KRS Chapters 76 and 107. The owners of benefited property shall also be advised that such bonds and their interest shall be amortized by annual improvement benefit assessment levied against all benefited properties, for which lump-sum payments have not been paid, in accordance with the method of apportionment provided by the first ordinance and the second ordinance.

- (4) At the conclusion of the ninety (90) days permissive lump-sum payment period, the district board in wastewater collection projects shall determine the aggregate principal amount of assessments paid in full by owners of benefited properties and shall deposit these moneys in a trust account to be used solely to pay the costs of construction of the project. These moneys shall not be disbursed until bond proceeds are available. The district board shall aggregate all unpaid improvement benefit assessments for the purposes of determining the principal amount of bonds to be issued by such district to provide the remaining costs of the project. The district board also: (a) shall compute the debt service reserve fund in respect of such bonds, if such fund is to be capitalized from bond proceeds; (b) shall determine the bond discount and capitalized interest which shall be applicable to the issue of bonds; and (c) shall proceed to complete the financing of the costs of construction of the project through the adoption of the third ordinance as provided in KRS 107.090 and the sale of bonds authorized pursuant thereto. If, by reason of miscalculation or unforeseen events, the proceeds of the bonds authorized plus lump-sum payments previously collected should prove to be insufficient to provide for the completion of the project and full payment of all costs, the district shall be required to levy pro rata an additional assessment on owners of all benefited properties. The district shall collect sufficient additional lump-sum payments and shall issue and sell sufficient additional bonds to make up the deficiency. Any such additional bonds shall rank on a parity as to security and source of payment with the bonds originally authorized.

History: Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 13, sec. 15. -- Amended 1966 Ky. Acts ch. 239, sec. 121. -- Created 1956 Ky. Acts ch. 239, sec. 8.