

#### **109.041 County powers for solid waste management.**

- (1) In addition to all other powers enumerated in Chapter 67 and other sections of the Kentucky Revised Statutes, counties, acting by and through their fiscal courts, may own and hold the permit for, plan, initiate, acquire, construct, and maintain solid waste management facilities, enter into contracts or leases with private parties for the design, construction, or operation of a publicly-owned solid waste management facility, and adopt administrative regulations with respect thereto in accordance with this chapter. It is hereby determined and declared that in the implementation, acquisition, financing, and maintenance of solid waste management facilities, and in the enforcement of their use, counties will be performing state functions duly delegated to them for the public welfare. In such regard, the right of counties to condemn land necessary for the acquisition of solid waste management facilities pursuant to the Eminent Domain Act of Kentucky and to exercise the police power in respect thereto is confirmed. Any county may contract with third parties for the management by public or private means of solid waste within the county.
- (2) No solid waste management facility shall be acquired and constructed until the construction thereof has been approved in writing by the cabinet. Planning for a solid waste management facility shall be conducted in accordance with the policy set forth in KRS 109.011(7) and KRS Chapter 224.
- (3) No county or waste management district shall prohibit or otherwise restrict materials recovery by:
  - (a) Any materials recovery operation in existence in the county or district on the effective date of the mandatory program;
  - (b) Any person supplying material to materials recovery operations on the effective date of the mandatory program;
  - (c) Any new materials recovery operation that reclaims the same type of materials as materials recovery operations included in paragraph (a) of this subsection;
  - (d) Any new suppliers to materials recovery operations included in paragraphs (a) and (c) of this subsection;
  - (e) Any materials recovery operation for glass, plastic, or metal beverage containers, unless a commitment has been made by a local government or other political subdivision of the state, by ordinance or contract, to a solid waste project consistent with the provisions of this chapter, that is dependent upon the materials recovery of glass, plastic, or metal beverage containers to meet its financial obligations for said project, and such commitment has been made prior to the operation of any other such materials recovery facility in the county or district; or
  - (f) Any other materials recovery operation within the county or district not included in paragraphs (a) through (e) of this subsection or the supply of materials to such operation unless it is established that such operation would jeopardize the ability of a local government or other political subdivision of the state to meet financial obligations incurred in the maintenance, operation,

or amortization of capital acquisition costs for a solid waste management facility.

- (4) Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, no county or waste management district shall regulate special wastes as defined in KRS 224.50-760, other than sludge from water and waste water treatment facilities as it pertains to landfarming, or solid waste from agricultural or mining operations.
- (5) Any county undertaking the planning, implementation, construction, installation, acquisition, and financing of a solid waste management facility pursuant to this chapter shall have the authority set forth in Chapter 58 of the Kentucky Revised Statutes concerning the financing of such solid waste management facility, including the authority to promulgate, enforce, and collect reasonable rates, rentals, and charges for the use of such solid waste management facility.
- (6) Bonds authorized to be issued by any county pursuant to the authority of this chapter for the financing of solid waste management facilities may be sold at either private or public sale as may in the sound discretion of the county be in the best interests of the county.
- (7) Any county undertaking solid waste management pursuant to the provisions of this chapter may contract with any person for the provision of solid waste management services. A county may contract with any city to provide solid waste management services or may delegate the responsibility for solid waste management within incorporated areas to a city when the city agrees to assume such responsibility. In connection with solid waste management, any county may enter into contracts with any person for any term of years.
- (8) Counties are authorized to charge a reasonable fee to transporters for the handling of their waste at a solid waste management facility approved by the cabinet.
- (9) Counties are authorized to sell or market materials and energy recovered from solid waste and to enter into long-term contracts guaranteeing supply to insure markets for the sale of recovered products.
- (10) In carrying out the provisions of this chapter, counties shall be subject to standards set by regulations adopted by the cabinet on waste management pursuant to KRS Chapter 224.
- (11) No county or waste management district shall prohibit long-term contracts by ordinance or other means.
- (12) Counties are expressly authorized in addition to the powers enumerated in KRS Chapter 65 and this chapter to contract with one another in order to regionalize solid waste management to the maximum extent practicable.
- (13) Notwithstanding any other provision of law, a fiscal court may, by ordinance, create a solid waste district to exercise the powers of the county pursuant to this chapter, except that a district created for this purpose shall not levy or collect ad valorem property taxes.

**Effective:** July 15, 2002

**History:** Amended 2002 Ky. Acts ch. 342, sec. 14, effective July 15, 2002. -- Amended 1991 (1st Extra. Sess.) Acts Ch. 12, sec. 33, effective February 26, 1991. -- Amended 1990 Ky. Acts ch. 353, sec. 1, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 329, sec. 1, effective July 15, 1988. -- Amended 1984 Ky. Acts ch. 398, sec. 2, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 74, sec. 4, effective July 15, 1982. -- Created 1978 Ky. Acts ch. 115, sec. 6, effective June 17, 1978.