

### **66.310 Approval of county bonds.**

- (1) No county may issue bonds which, together with all other net indebtedness of the county plus the principal amount of any outstanding self-supporting obligations, is in excess of one-half of one percent (0.5%) of the value of the taxable property therein, as determined by the next preceding certified assessment, without having first secured the written approval of the state local debt officer. Any other bonds to be issued by any county may be submitted for approval as hereinafter provided. When the fiscal court of any county has petitioned the state local debt officer under KRS 66.320 for assistance in formulating a plan for reorganizing its debt structure, or has received the approval of any issue of county bonds voluntarily as provided in this section, all bonds thereafter issued by the county must be approved as provided in this section.
- (2) Without the approval of the state local debt officer a county may not lease, as lessee, a building or public facility that has been or is to be financed at the county's request or on its behalf through the issuance of bonds by another public body or by a nonprofit corporation serving as an agency and instrumentality of the county for that purpose, unless the bonds, if issued by the county itself as its own general obligations, would be exempt under the provisions of subsection (1). If his or her approval is required, the state local debt officer shall hold a hearing for the purpose of considering the terms of the lease upon the same basis as is provided under subsections (3) and (4) of this section, and interested parties shall have the same right of appeal as is therein provided. This subsection does not apply to leases entered into before July 1, 1964, nor to renewals thereafter of leases entered into before that date, nor to bonds referred to in this subsection if those bonds have been sold prior to that date, whether or not actually delivered to the purchaser or purchasers thereof before that date.
- (3) The state local debt officer shall hold a hearing in accordance with KRS Chapter 13B for the purpose of determining whether any issue of bonds submitted to him or her for approval should be approved or disapproved. The state local debt officer shall provide notice of the hearing to the county judge/executive of the county proposing to issue bonds, and the county judge/executive shall cause a copy of that notice to be published not less than twenty (20) days in advance of the date set for the hearing. Any person having a material interest in the issuance of the bonds shall have an opportunity to be heard and to present evidence at the hearing held by a hearing officer appointed by the state local debt officer. A record of the proceedings of the hearing shall be made, and the state local debt officer shall review the record and prepare a written decision approving or disapproving the issuance of the proposed bonds. The decision shall set forth the findings of fact upon which the state local debt officer bases his or her decision. On the day that the state local debt officer issues a decision, he or she shall mail a copy to the county judge/executive of the county proposing to issue the bonds and to any person who attended the hearing and requested to receive a copy of the decision.
- (4) The state local debt officer shall disapprove the issuance of the proposed bonds if he or she finds that one (1) or more of the following conditions exist:

- (a) The financial condition and prospects of the county do not warrant a reasonable expectation that interest and principal maturities can be met when due without seriously restricting other expenditures of the county, including the debt service on the other outstanding obligations of the county;
  - (b) The issue of bonds will not serve the best interests of both the county issuing the bonds and a majority of its creditors; or
  - (c) The bonds or the issuance thereof will be invalid.
- (5) If the state local debt officer is petitioned by any county to approve the issuance of bonds to refund outstanding county bonds, and if the state local debt officer is unable to find that the bonds sought to be refunded were in their entirety validly issued, he or she shall nevertheless find that bonds may be issued validly for the purpose of refunding the bonds, in equivalent or lesser par principal amount, provided that the interest rate to be borne by the refunding bonds shall be sufficient to make possible their liquidation within their life at no greater average annual cost to the county than would be required to liquidate, within the same number of years, the portion of the outstanding indebtedness found to be valid at the interest rate borne by it before refunding.
- (6) Within thirty (30) days after the date of a decision by the state local debt officer approving a county's proposal to issue bonds, any interested party or taxpayer of the county may appeal to the Circuit Court of the county proposing to issue the bonds. Appeal shall be taken by filing a complaint with the clerk of the court and serving a copy of the complaint upon the state local debt officer by certified mail, return receipt requested. The fiscal court and, in the case of funding or refunding bonds, the creditors whose claims or bonds are proposed to be funded or refunded, shall be made parties to the appeal. The state local debt officer shall not be named as a party to an appeal under this subsection, but shall be allowed to intervene in the appeal upon his or her motion. Summons shall be served and class representatives designated as provided in the Rules of Civil Procedure. Within thirty (30) days of receipt of the complaint, the state local debt officer shall certify and file a copy of the record of the proceedings and his or her decision with the Circuit Court.
- (7) A county proposing to issue bonds may appeal a decision of the state local debt officer disapproving the issuance of the bonds by filing a complaint with the Franklin Circuit Court within thirty (30) days after the date of the decision. The state local debt officer shall be named as a defendant in an appeal under this subsection. Summons shall be issued and served as provided in the Rules of Civil Procedure. With his or her answer, the state local debt officer shall certify and file a copy of the record of the proceedings and his or her decision.
- (8) Appeals to the Circuit Court shall be advanced on the docket and shall be heard and decided upon the record certified by the state local debt officer. The findings of fact of the state local debt officer shall be final if supported by any substantial evidence; however, if only the question of the validity of the bonds proposed to be funded or refunded is in issue, additional evidence relating to the validity of the bonds may be presented.

- (9) An appeal may be taken from the Circuit Court to the Court of Appeals in the manner provided in the Rules of Civil Procedure.
- (10) If no appeal is taken from the approval of a bond issue by the state local debt officer as provided in this section, the decision as to the legality of the bonds shall be res judicata in any subsequent case or cases raising the question of their legality.
- (11) Record of the approval of bonds as provided in this section shall be made in the minutes of the next meeting of the fiscal court of the county issuing the bonds so approved, and copies of all decisions of the state local debt officer shall be filed with the Secretary of State.
- (12) As used in this section, bonds means bonds and obligations.

**Effective:** June 24, 2003

**History:** Amended 2003 Ky. Acts ch. 82, sec. 2, effective June 24, 2003. -- Amended 1996 Ky. Acts ch. 280, sec. 20, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 508, sec. 29, effective July 15, 1994. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 20, sec. 6, effective January 2, 1978. -- Amended 1976 Ky. Acts ch. 62, sec. 66. - - Amended 1966 Ky. Acts ch. 239, sec. 10. -- Amended 1964 Ky. Acts ch. 191, sec. 1. -- Amended 1962 Ky. Acts ch. 25, sec. 3. -- Amended 1960 Ky. Acts ch. 104, sec. 2. -- Amended 1952 Ky. Acts ch. 84, sec. 55. -- Amended 1942 Ky. Acts ch. 179, secs. 2 and 6. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 938a-4, 938a-5.