

#### **164A.704 Duties of board.**

The board shall:

- (1) Promulgate administrative regulations, set fees, and adopt procedures as are necessary to implement the provisions of KRS 164A.700 to 164A.709;
- (2) Enter into contractual agreements, including contracts for legal, actuarial, financial, and consulting services;
- (3) Invest moneys in the fund in any instruments, obligations, securities, or property as permitted by KRS 164A.701(4) and deemed appropriate by the board;
- (4) Procure insurance to protect against any loss in connection with the fund's property, assets, or activities and to indemnify board members from personal loss or accountability from liability arising from any action or inaction as a board member;
- (5) Make arrangements with eligible educational institutions in the Commonwealth to fulfill obligations under prepaid tuition contracts, including, but not limited to, payment from the fund of the tuition cost on behalf of a qualified beneficiary to attend an eligible educational institution in which the beneficiary is admitted and enrolled;
- (6) Develop requirements, procedures, and guidelines regarding prepaid tuition contracts, including but not limited to, the termination, withdrawal, or transfer of payments under a prepaid tuition contract; tuition shortfalls; number of participants; time limitations for prepaid tuition contracts and the use of tuition benefits; tuition conversions; payment schedules; payroll deductions; penalties for failure of purchasers to adhere to contracts; and transfer of prepaid tuition credits towards private education in the Commonwealth or for out-of-state institutions;
- (7) Have the actuarial soundness of the fund evaluated by a nationally recognized independent actuary annually, by October 1 of each year, to determine:
  - (a) The amount of prepaid tuition for each tuition plan; and for each eligible educational institution for specific academic years, the corresponding value;
  - (b) Whether additional assets are necessary to defray the obligations of the portion of the fund relating to contracts entered into before April 25, 2006, and when those funds will be needed.
    1. For purposes of this paragraph, a "real liability expected to accrue during the next biennium" exists if the amount in the fund representing contracts entered into before April 25, 2006, is not sufficient to meet all anticipated distributions under contracts entered into before April 25, 2006, and the expense of maintaining and operating the fund for the upcoming biennium.
    2. If the report of the actuary submitted in an odd-numbered year reflects that there will be a real liability expected to accrue during the next biennium, the secretary of the Finance and Administration Cabinet shall include in the budget request for the cabinet an appropriation to the board in an amount necessary to meet the real liability in each fiscal year of the biennium, and the General Assembly shall appropriate the necessary funds; and

- (c) Whether additional assets are necessary to defray the obligations of the portion of the fund relating to contracts entered into after April 25, 2006, and when those funds will be needed. If the assets of the portion of the fund relating to contracts entered into after April 25, 2006, are insufficient to ensure the actuarial soundness of that portion of the fund, as reported by the actuary, the board shall adjust the price of subsequent purchases of prepaid tuition contracts to the extent necessary to restore the actuarial soundness of the fund. The board may suspend the sale of prepaid tuition contracts until the next annual actuarial evaluation is completed if the board determines the action is needed to restore the actuarial soundness of the fund. During a suspension of sales of contracts, the board and Tuition Account Program Office shall continue to service existing contract accounts and meet all obligations under existing prepaid tuition contracts; and
- (8) Make an annual report each year by November 1 to the Legislative Research Commission and the Governor showing the fund's condition, and whether additional assets will be necessary to defray the obligations of the fund.

**Effective:** April 25, 2006

**History:** Amended 2006 Ky. Acts ch. 252, Pt. XXXI, sec. 4, effective April 25, 2006. -- Amended 2005 Ky. Acts ch. 162, sec. 5, effective July 1, 2005. -- Amended 2002 Ky. Acts ch. 25, sec. 4, effective July 15, 2002. -- Created 2000 Ky. Acts ch. 163, sec. 4, effective July 14, 2000.