

**76.268 Annexation to subdistricts, procedure -- Effect.**

Annexation to subdistricts may be accomplished by any of the following procedures, as the board may elect:

- (1) (a) After the creation of a construction subdistrict under the provisions of KRS 76.241 to 76.246, the board may, if it deems it advisable, use the authority and procedures granted to sanitation districts by KRS 220.535 to 220.537 to annex territory to a subdistrict, the words "board of directors" being read as "metropolitan sewer district board."
  - (b) Language in KRS 220.535 limiting the powers of annexation to a sanitation district in a county not containing a city of the first class shall not be applicable to a metropolitan sewer district which might use this method of annexation to a construction subdistrict even if it is located in a county containing a city of the first class, and the secretary of the Energy and Environment Cabinet shall function in regard to annexation by it in the same manner and under the same procedures, as set out in KRS 220.535 to 220.537, as he would in his capacity as commissioner of sanitation districts for any sanitation district.
- (2) After the creation of a construction subdistrict under the provisions of KRS 76.241 to 76.246, the board may annex any area, contiguous or noncontiguous, subject to the limitations of KRS 76.242, to the construction subdistrict by making a preliminary order describing the area to be annexed and causing said order to be published pursuant to KRS Chapter 424. The notice so published shall state that objections in writing to the proposed annexation may be filed with the district within thirty (30) days of the date of said notice. The district shall examine and hear all such complaints. It may modify or amend the areas proposed to be annexed; and it shall make a final order, within sixty (60) days of the date of publication of said notice, describing the areas to be annexed and shall cause the same to be published, pursuant to KRS Chapter 424. A freeholder of land within the area proposed to be annexed may appeal such final order in the manner described in KRS 76.247. In referring to KRS 76.247, this section is not intended to provide for de novo trial.
  - (3) In the event the owner or owners of all the property or properties proposed to be annexed to a construction subdistrict shall tender to the district their written request or requests that the district proceed immediately with the annexation of said property or properties, and shall unqualifiedly waive all formalities and substantive rights contained in subsection (2) of this section, the district may thereupon make and publish a final order annexing said property or properties to the construction subdistrict. Said order shall contain a recitation of the receiving of waivers from the owners of all properties to be annexed thereunder. Provided, however, that in all such instances the written request or requests of the owner or owners of all properties proposed to be annexed to a construction subdistrict shall be in recordable form and shall be recorded in the office of the county clerk of the county wherein the property is located; and said clerk is authorized to record such instruments as in the case of mortgages and may charge and receive fees therefor as in the case of mortgages.

- (4) The provisions of subsections (1), (2), and (3) of this section shall not repeal or reduce any existing rights or duties of metropolitan sewer districts, but shall constitute merely a procedure for annexation to construction subdistricts by a metropolitan sewer district.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 70, effective July 15, 2010. -- Amended 1978 Ky. Acts ch. 384, sec. 200, effective June 17, 1978. -- Amended 1974 Ky. Acts ch. 74, Art. VI, sec. 107(1). -- Amended 1968 Ky. Acts ch. 156, sec. 9. -- Created 1964 Ky. Acts ch. 33, secs. 33 to 35.

**Legislative Research Commission Note (9/19/95).** The reference to "the Director of Sanitary Engineering of the Department of Health" in subsection (1)(b) of the original text of this statute (1964 Ky. Acts ch. 33, sec. 34) was mistakenly changed to "the director of sanitary engineering of the Department [now Cabinet] for Human Resources" on the basis of 1974 Ky. Acts ch. 74, Art. VI, sec. 107(11). However, the functions of this officer as they related to KRS 220.535 to 220.537, cited in subsection (1)(b) of this statute, were transferred to the commissioner of environmental protection in the amendment of KRS 220.020 by 1972 (1st Extra. Sess.) Ky. Acts ch. 3, sec. 30; these functions now are held by the secretary of the Natural Resources and Environmental Protection Cabinet (1974 Ky. Acts, ch. 74, Art. III, sec. 13(2) & (9); 1982 Ky. Acts ch. 393, sec. 50(3)). Because of this, and pursuant to KRS 7.136(2), "the secretary of the Natural Resources and Environmental Protection Cabinet" has been substituted in subsection (1)(b) of this statute where "the Director of Sanitary Engineering of the Department of Health" originally appeared.