

96A.080 Acquisition of transportation systems by purchase or condemnation -- Subsidies.

- (1) A transit authority may establish mass transportation within its transit area and adjoining areas, but may not inaugurate service in direct competition with any existing certificated carrier.
- (2) In addition to the power conferred upon an authority by this chapter, an authority may acquire real or personal property, easements, franchises, bus certificates, or other rights by any lawful means necessary to its operation of any existing mass transit system within its transit area and adjoining areas, provided that having acquired an existing transit system it shall not thereafter inaugurate service in direct competition with any other existing certificated carrier.
- (3) An authority may, if unable to contract or agree with the owner or owners thereof, acquire real and personal property, franchises, bus certificates, easements and other rights when necessary in and to the accomplishments of the public purposes of the authority, through exercise of the power of eminent domain; provided, however, that in acquiring any private bus company pursuant to this section, the authority may not do so piecemeal but shall acquire the entire system including that which may be outside the area then included within the authority. An authority shall not condemn any real and personal property, franchises, bus certificates, easements and other rights of a private bus company the majority of whose passengers move between termini without the transit area. Any exercise of such power shall be initiated by resolution of the board of the authority identifying the properties or rights to be acquired, reciting the board's determination that acquisition by such means is necessary, and authorizing initiation of proceedings as required by law; and such resolution of the board of the authority shall not be conclusive of such determination but shall be subject to the approval of the fiscal court or courts of the county or counties in which the property sought to be condemned is located.
- (4) Proceedings in the exercise of the power of eminent domain herein vested in an authority shall, except where inconsistent with this chapter, be such as are prescribed for the Department of Highways by the Eminent Domain Act of Kentucky, and as the same may be amended and supplemented from time to time. All such proceedings shall be governed by the provisions of the Rules of Civil Procedure except where the provisions of this chapter or of the Eminent Domain Act of Kentucky specifically or by necessary implication provide otherwise. If a privately owned mass transportation system, or other property sought to be acquired by an authority, shall have been acquired or improved in whole or in part at the expense of the authority, the cost and value of such acquisitions and improvements shall be excluded in any proceedings to establish the fair value thereof.
- (5) During any period when negotiations for the purchase of a mass transit system are in progress, and/or during any period when proceedings for acquisition of a mass transportation system through exercise of the power of eminent domain may be pending, an authority may make reasonable subsidy payments to the owner or owners of such mass transit system if, in the judgment of the board of the authority, such subsidy payments are necessary in order to give reasonable assurance that there

will be no substantial reduction of transportation service to the public. Such subsidy payments may be made by an authority from any resources available to it, or from appropriations made or agreed to be made to it by any public body having an interest in the preservation of mass transit service to the public; and if bonds are ultimately issued for the purchase or other acquisition of such mass transit system, the aggregate amount of such subsidy payments may be included as a part of the cost of acquisition and made payable from the proceeds of such bonds. In no event, however, shall any action on the part of a board of an authority in this connection create an indebtedness of the authority beyond its available resources or such appropriations or the proceeds of such bonds, if and when bonds are issued.

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History: Amended 1980 Ky. Acts ch. 324, sec. 3, effective July 15, 1980. -- Amended 1976 Ky. Acts ch. 140, sec. 48. -- Amended 1974 Ky. Acts ch. 74, Art. IV, sec. 20(1) -- Created 1970 Ky. Acts ch. 243, sec. 9.