

#### **45.760 Limitations on project and equipment expenditures in State Capital Construction Program.**

The provisions of any other law notwithstanding:

- (1) During any biennium the amount allotted, from all sources, for expenditure on any project in the state capital construction program for that biennium shall not exceed the estimated cost of the project during that biennium, as shown in any branch budget bill enacted by the General Assembly, except as provided in this section and KRS 45.770 and 45.780.
- (2) When the General Assembly disapproves a capital project or item of equipment that was previously approved, it shall be eliminated as a capital project or major item of equipment in the Capital Projects Program. General fund moneys appropriated for that project or item of equipment but not allotted, and general fund moneys allotted but not expended to the project or equipment account, shall be transferred to the capital construction and equipment purchase contingency account in the capital construction fund. Agency or federal funds for a disapproved project or item, that have been appropriated but unallotted or allotted but unexpended, shall be returned to the appropriate agency fund. Road fund moneys for a disapproved project or item that have been appropriated but unallotted or allotted but unexpended, shall be returned to the Road Fund Surplus Account.
- (3) Capital projects and major items of equipment disapproved under subsection (2) of this section shall be terminated.
- (4) During any biennium, the amount allotted from all sources for expenditure for the purchase of any major item of equipment shall not exceed the estimated cost of the item as shown in any branch budget bill enacted by the General Assembly and authorizing the purchase, except as provided in subsections (5) and (6) of this section and in KRS 45.770 and 45.780.
- (5) A major item of equipment to be used for medical, scientific, or research purposes, excluding computer equipment and aircraft, may be authorized even though it is not specifically listed in any branch budget bill enacted for the current biennium, subject to the following conditions and procedures:
  - (a) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be reallocated for expenditure on the item; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs;
  - (b) Funds are available for the purchase and the method of financing the purchase will not require an additional appropriation of state funds to acquire the item; and
  - (c) The purchasing agency shall, within thirty (30) days after making the purchase, report the purchase to the Capital Projects and Bond Oversight Committee. The report shall include a description of the item, the purpose for which it will be used, the necessity for the purchase, and the amount expended for the purchase from each source of funds used.
- (6) Moneys from any source may be transferred to the allotment account of any capital project authorized by the General Assembly under this section, subject

to the following conditions and procedures:

- (a) The total amount transferred shall not exceed fifteen percent (15%) of the amount authorized by the General Assembly unless:
    - 1. The source of funds is private or federal; or
    - 2. An unforeseen decision by a federal or state court or regulatory agency requires the transfer.
  - (b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallocated for expenditure on the capital project.
  - (c) Moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs.
  - (d) The relevant entity head, or his designee, shall submit the capital project to the Capital Projects and Bond Oversight Committee at least fourteen (14) days prior to the committee meeting. The submission shall include a written certification to the committee that the transfer, in excess of fifteen percent (15%) of the amount authorized by the General Assembly, is:
    - 1. Paid for out of private or federal funds; or
    - 2. Required by an unforeseen decision by a federal or state court or regulatory agency; and
    - 3. Not allotted or reallocated from moneys specifically budgeted and appropriated by the General Assembly for another purpose; and
    - 4. Not jeopardizing any existing program and not requiring the use of any current general funds specifically dedicated to existing programs.
  - (e) If a capital project is financed with road funds, the cost overruns or scope increases shall be paid out of the highway contingency account established pursuant to KRS 45.247.
- (7) A capital construction project or a major item of equipment may be authorized even though it is not specifically listed in any branch budget bill, subject to the following conditions and procedures:
- (a) Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds, and fifty percent (50%) or less of the actual cost shall be funded by moneys appropriated to the capital construction and equipment purchase contingency account or, if the purpose of the project or equipment is to reduce energy costs, the relevant entity head certifies projected energy cost savings associated with the project or equipment are reasonable and sufficient to produce an aggregate simple payback period, as defined by KRS 56.770, of five (5) years or less;
  - (b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallocated for expenditure on the project or major item of equipment; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs; and
  - (c) The relevant entity head, or his designee, shall submit the project or

major item of equipment to the committee for review as provided by KRS 45.800.

- (8) The capital construction and equipment purchase contingency fund may be used to advance funds to projects authorized to be financed by bonds, to finance feasibility studies for projects which may be contemplated for future funding, or to audit the capital projects program when authorized by the General Assembly.
- (9) On or before October 1, each branch of government shall submit to the committee the following information:
  - (a) A complete list and summary description of every capital construction project and major item of equipment not completed as of June 30 of the prior fiscal year; and
  - (b) For each project and major item of equipment, as of July 1, of the current fiscal year:
    1. The project phase;
    2. The project account number, project name, and any other term employed to identify the project or major item of equipment;
    3. The available balance in the project or major item of equipment account, and any sums considered available for that project or major item of equipment;
    4. A statement of the transfers of funds to or from the project or major item of equipment account; and, any account to which transfers from each project or major item of equipment has been made;
    5. The year in which the project or major item of equipment was approved, with specific reference to the legislation by which the project or item was approved;
    6. Total expenditure on the project or major item of equipment;
    7. The current estimated completion cost, including the amount required for annual inflation; and
    8. A statement that additional funds for the completion of the project or major item of equipment are or are not required; and, if required, why sufficient funds for completion are not available; and
  - (c) The balance in the appropriated, but unallotted account; and the balance in any account, however designated, that contains appropriated, but unallotted funds for capital construction.
- (10) When the General Assembly authorizes a capital construction item in the capital construction section of a branch budget bill, the entity head charged with executing the branch budget shall construct the capital construction item according to the requirements set forth in the branch budget bill, supporting documentation considered by the General Assembly, and branch budget records. The entity head shall not deviate from these requirements with regard to:
  - (a) Purpose or location to the extent that the capital construction item no longer meets the identified needs; or
  - (b) Configuration for reasons other than practical accommodation to the

construction site or specific program to be accommodated within that capital construction item.

**Effective:** June 8, 2011

**History:** Amended 2011 Ky. Acts ch. 73, sec. 6, effective June 8, 2011. -- Amended 2009 Ky. Acts ch. 78, sec. 31, effective June 25, 2009. -- Amended 2001 Ky. Acts ch. 58, sec. 23, effective June 21, 2001. -- Amended 1998 Ky. Acts ch. 375, sec. 1, effective July 15, 1998; and ch. 423, sec. 2, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 387, sec. 19, effective July 15, 1994. Amended 1992 Ky. Acts ch. 47, sec. 2, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 30, sec. 3, effective July 13, 1990; and ch. 507, sec. 4, effective July 13, 1990. -- Amended 1986 Ky. Acts ch. 46, sec. 1, effective July 15, 1986. -- Amended 1984 Ky. Acts ch. 410, sec. 2, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 300, sec. 7, effective July 15, 1982; and ch. 450, sec. 60, effective July 1, 1983. -- Created 1979 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 2, effective January 1, 1980.

**2012-2014 Budget Reference.** See State/Executive Branch Budget, 2012 Ky. Acts ch. 144, Pt. I, K, 1, (4) at 1134.