

96.265 Extension of service to persons not currently served -- Costs -- Assessments -- Apportionment warrants -- Liens.

The board of waterworks may extend the waterwork corporation's facilities to provide water service to persons within and outside the city of the first class, including extensions into counties adjoining its county of origin. In extending service to persons not presently served within the city and county of the waterwork corporation's origin it may, but is not required to, make water line extensions recovering the cost thereof, KRS 96.539 notwithstanding, by assessment as provided in this section.

- (1) The board of waterworks, acting on its own motion, may hold a public hearing to consider the extension of the waterwork corporation's facilities to provide water service to persons not currently served. Alternatively, in response to a petition signed by the majority of owners in an area not currently served by the waterwork corporation's service, which petition shall describe the area proposed to be served, the board of waterworks shall hold a public hearing to consider the benefits of extending its service to that area. Notice of the hearing shall be published in accordance with KRS Chapter 424. The board of waterworks shall designate a member of the board or an officer of the waterworks corporation to preside over the hearing. Following the public hearing, the board of waterworks shall determine whether it is feasible and beneficial to extend its service. If the board of waterworks determines that it is feasible and beneficial to extend its service, it shall refer the matter to the legislative body governing the area to which service shall be extended. If the legislative body determines that service should be extended, it shall pass an ordinance providing for the extension of service.
- (2) The costs of such extension shall be apportioned by the ordinance against the property to which the waterwork corporation's service will be made available by reason of such extension according to an equitable basis, considering the size, configuration, and suitability as building sites of the lots or tracts to be served. Any of the following methods, or a combination thereof, may be used:
 - (a) The costs of such extension may be apportioned according to the number of square feet in any lot or tract abutting the publicly-dedicated right-of-way in which the water line extension is located. The rate of apportionment shall be the same for each square foot in any lot or tract abutting a publicly-dedicated right-of-way in which a water line extension is located, except the portions of any such lot or tract which lie a distance greater than a number of feet, as stated in the ordinance, from the water line extension, or which lie within a number of feet, as stated in the ordinance, from an existing water line located in a publicly-dedicated right-of-way which also abuts such lot or tract, shall not be subject to assessment nor included in the calculations of the square footage of such lot or tract. The rate of apportionment shall be determined by dividing the costs of the extension by the assessable area of all lots or tracts abutting the publicly-dedicated right-of-way in which a water line extension is located.
 - (b) The costs of such extension may be assessed against the lots or tracts according to the number of feet in the lot or tract fronting on the

publicly-dedicated right-of-way in which a water line extension is located. The rate of apportionment shall be the same for each such foot of frontage, and shall be determined by dividing the assessable costs of the water line extension by the total front footage of all lots or tracts fronting on the part of the publicly-dedicated right-of-way in which a water line extension is located.

- (c) The costs of such extension may be assessed against the lots or tracts abutting publicly-dedicated rights-of-way in which water line extensions are located according to the value of any such lot or tract, without regard to any improvements on such lots or tracts, as determined as of the date of the most recent assessment by the property valuation administrator of the county in which such lots or tracts are located. The rate of apportionment shall be the same for each dollar of assessed value of lots or tracts abutting the parts of the publicly-dedicated right-of-way in which the water line extension is located, except portions of such lots or tracts that are a distance greater than a number of feet, as stated in the ordinance, from the water line extension or that are within a number of feet, as stated in the ordinance, from an existing water line of the corporation located in a publicly-dedicated right-of-way which also abuts such lot or tract shall not be assessed. The value of any lot or tract, portions of which are excluded from assessment, shall be determined by multiplying the value of the entire property by a ratio, the numerator of which is the number of square feet of the lot or tract to be assessed and the denominator of which is the number of square feet in the entire lot or tract. The rate of apportionment shall be determined by dividing the assessable costs of the water line extension by the total assessed value of all assessable lots or tracts abutting the parts of the publicly-dedicated rights-of-way in which water line extensions are located.
 - (d) The costs of such extension may be assessed against the lots or tracts that may be served by the extension at a rate that is the same for each such lot or tract, where each such lot or tract is suitable for or limited to a single building site.
 - (e) If any lots or tracts abut on more than one (1) dedicated right-of-way in which a water line extension is made, such lots or tracts shall be assessed as if they abutted on only one (1) such right-of-way.
 - (f) In the event of a subdivision of a lot or tract assessed under this section, which subdivision requires a new water line extension, nothing herein shall prohibit the assessment of the newly subdivided lots or tracts, except those that abut a dedicated right-of-way with an existing water line.
- (3) The waterwork corporation shall determine the percentage share of the total costs of the extension to be assessed against each lot or tract and shall notify each owner of such share to be assessed against his lot or tract. Any owner may, within thirty (30) days after receiving notice of the method of apportionment or the percentage share of the total costs to be assessed against his property, appeal the percentage share to be assessed against his property by filing a written appeal with the waterwork corporation setting forth the bases for the challenge. The president of the waterwork corporation shall

appoint one (1) or more officers of the corporation to review such appeal, which review may include holding a hearing on the appeal. Any determination by the officer or officers that affects only the assessment of the aggrieved property owner shall not require further legislative action. If, however, as a result of the appeal, the hearing officer or officers recommend that the method of apportionment be changed, the matter shall be referred back to the legislative body that passed the ordinance provided for in subsection (1) of this section for consideration of an amendment thereto.

- (4) The cost of property service connections from the water line extension to the property line as required shall be assessed against the individual lots or tracts to which such property service connections are furnished. The costs to be assessed for the property service connection shall be fixed by regulation of the board of waterworks based on its experience of costs for such work. No lot or tract owner shall be required to connect to the water line extension by reason of this section, but such failure to connect to the water line extension shall not exempt such lot or tract owner from its proportionate share of the costs as provided in subsection (2) of this section.
- (5) All lots or tracts abutting the publicly-dedicated right-of-way in which the water line extension is located shall be assessed as provided in the ordinance, except property dedicated to use for public roadways and property owned by cities of the first class and any joint agencies of cities of the first class and the counties in which such cities are located, if the extension is located in the city of the first class.
- (6)
 - (a) The actual construction work to provide the water line extension and property service connections shall be done by, or under the control of, the board of waterworks.
 - (b) The total cost of the water line extension, which is assessed against property served under subsection (2) of this section, shall include not only the actual construction costs and the costs of any easements required for the water line extension, but also costs of surveys, designs, plans, specifications, notices, inspection, project legal and administrative services, and administration. However, costs included in the assessment which are other than actual construction costs and costs of easements shall not exceed fifteen percent (15%) of the actual construction costs and the costs of any easements of the project.
- (7) A lien superior to all liens except the liens for state, county, city, school, and road taxes and liens prior in time for other public improvements shall exist against the respective lots or tracts of land for the cost of the water line extension for apportionment as hereinafter provided and the interest due thereon, commencing with the date of issuance of the apportionment warrant.
- (8) Upon completion of the water line extension, the board of waterworks shall issue all apportionment warrants against the properties assessed and shall immediately list the record owners thereof in alphabetical order upon a register kept for that purpose. Each apportionment warrant shall be payable to the waterworks corporation, or its assignee, in equal monthly installments, not exceeding two hundred forty (240) months, of principal and interest and shall be the obligation of the owners of and a lien upon the applicable lots or tracts

until paid in full. The apportionment warrants may bear interest at an annual fixed rate as then determined by the board of waterworks pursuant to KRS 58.430. When the warrant has been paid in full, the holder thereof shall notify the board of waterworks, and it shall mark upon the register the fact of payment and release the lien. If any installment of principal or of interest on the warrant is not paid when due, the holder thereof may foreclose the lien securing the payment of the warrant in the same manner as mortgage liens are foreclosed.

- (9) The lien shall exist from the date of the apportionment warrant. The board of waterworks shall cause such warrant or a notice thereof to be recorded in the office of the clerk of the county in which the affected property is located.
- (10) After any water line extensions have been constructed in conformity with this section, the board of waterworks shall notify each affected property owner of the cost apportioned to his property at his address as shown at the time the notice is sent on the records of the property valuation administrator for the county in which the affected property is located. Failure of any property owner to receive this notice shall not affect the validity of the lien.
- (11) If, by private agreement with the owners of lots or tracts, the waterworks corporation extends its water lines to those lots or tracts, and the private agreement provides for a lien on the lots or tracts to secure payment to the waterworks corporation of the cost of the extension, and a notice of such lien is recorded, that lien shall be superior to all liens except the liens for state, county, city, school, and road taxes and liens prior in time for other public improvements.

Effective: July 15, 1988

History: Created 1988 Ky. Acts ch. 75, sec. 1, effective July 15, 1988.

Formerly codified as KRS 96.315, renumbered effective June 16, 1994.

Legislative Research Commission Note (6/16/94). Pursuant to KRS 7.136(1)(a), this statute has been renumbered from KRS 96.315 to its current number. 1988 Ky. Acts ch. 75, sec. 1, had enacted the statute as a new section of KRS 96.230 to 96.310, but it was inadvertently codified outside of that range.