

Matthew G. Bevin
Governor



Derrick Ramsey
Secretary
Education and Workforce
Development Cabinet

Wayne D. Lewis, Ph.D.
Commissioner of Education

KENTUCKY DEPARTMENT OF EDUCATION

300 Sower Boulevard • Frankfort, Kentucky 40601
Phone: (502) 564-3141 • www.education.ky.gov

MEMORANDUM No. 43 – *Rev. 1 (Italic font) Rev. 2 (Underlined Italic font)*

TO: Design Professionals providing services to Kentucky's Public Schools

FROM: Greg Dunbar, AIA, Manager, District Facilities Branch

DATE: ~~April 15, 2019~~ ~~October 14, 2019~~ July 8, 2020

RE: ~~Senate Bill 162~~ **KRS 162.062 - Water Bottle Filling Stations** *Senate Bill 57 (2020) KRS 162.062*

SB 57 was passed by the legislature as emergency legislation, was signed by Governor Beshear and became law on March 17, 2020. The requirement for water bottle filling stations was removed from "any addition or alterations of old buildings," however, the enforcement of the requirements for these plumbing fixtures for new public school buildings remains the responsibility of KDE.

We have received several questions regarding our administration of the new statutory requirement regarding water bottle filling stations. To attempt to clarify the applicability of this law and the procedural requirements for KDE review, we are providing this revised memorandum which addresses our interpretations of the terms "schools" and "school buildings." The ~~new~~ revised statute follows:

162.062 Plans for new or renovated public school buildings required to provide sufficient water bottle filling stations and drinking fountains -- Specifications for design and maintenance of water bottle filling stations and drinking fountains.

(1) The chief state school officer shall not approve the plans and specifications for a new public school building contemplated by a board of education ~~or for any addition or alteration of old buildings~~, as required by KRS 162.060, unless the plans and specifications provide for:

- (a) A minimum of two (2) water bottle filling stations in each school;*
- (b) A minimum of one (1) drinking fountain or water bottle filling station on each floor and wing of each school building; and*
- (c) A minimum of one (1) drinking fountain or water bottle filling station for every seventy-five (75) students projected to attend the school upon completion of the proposed construction.*

(2) Any water bottle filling station installed in a public school building shall:

- (a) Dispense filtered, clean drinking water;*
- (b) Be regularly cleaned and maintained; and*
- (c) If there is no drinking fountain on the same floor and wing as the water bottle filling station, be accompanied by a cup dispenser.*

(3) Any drinking fountain installed in a public school building shall:

- (a) Be equipped with a protective cowl;
- (b) Be equipped with a water spout at least one (1) inch above the overflow rim of the drinking fountain;
- (c) Dispense filtered, clean drinking water; and
- (d) Be regularly cleaned and maintained. Effective: June 27, 2019 History: Created 2019 Ky. Acts ch. 197, sec. 6, effective June 27, 2019.

This statute applies to all new construction, ~~additions or alterations of existing~~ public PS-12 school buildings. It will be administered by KDE's District Facilities Branch (DFB) under 702 KAR 4:160 Capital Construction Process which requires compliance with 702 KAR 4:170. Please note that 702 KAR 4:170 Part 3(g) Plumbing Design states that "All plumbing shall conform to the requirements of the Kentucky plumbing code, incorporated in the Kentucky Building Code, in effect at the time of approval of the plans..." This *revised* law supersedes both these regulations and the Kentucky Plumbing Code. It ~~causes~~ *continues* the need for two separate processes to be administered by two separate state agencies related to plumbing fixtures in *new* public schools.

It does not provide DFB the discretion to waive review of construction documents or "conditionally" approve plans *for new buildings* that do not include water bottle filling stations. ~~Therefore, KDE's "tiering" formula will be revised so that any project required by this law to include water bottle filling stations will be a minimum Tier 3 project and require KDE approval of construction documents. New schools will most likely be Tier 1 projects.~~

To comply with this legislative mandate and address KDE's *newly continued* delegated responsibility to review plans for the inclusion of this singular plumbing fixture, the following documentation shall be provided to DFB with the construction documents submittal (in FACPAC) in order to receive approval to advertise and bid:

1. Floor plan for each floor titled "Water Bottle Filling Station Plan." Multiple floor plans on one sheet will be accepted.
2. Calculations demonstrating compliance with the law including the number of students and the number of water bottle filling stations *and drinking fountains* being provided.
3. A specification section titled "Water Bottle Filling Stations" which identifies a minimum of two (2) acceptable manufacturers and cut sheets of those products.

A drawing consisting of the 3 items above (floor plan(s), calculations and cut sheets) shall be included in the construction document submittal immediately behind the cover sheet in the plan set.

Documentation demonstrating that an existing building is currently in compliance and will remain in compliance after the project is approved must be submitted in SharePoint under "My Document Submissions" prior to the Construction Document phase submittal.

Beginning ~~As of March 17, 2020~~ July 1, 2019, construction document submittals *for new public school buildings* that do not provide the above listed items, will not be approved.

Please note that DFB has not previously reviewed submittals for compliance with the requirements of the Kentucky Plumbing Code and will not do so going forward. Design professionals shall continue to provide plumbing submittals to the Division of Plumbing. However, *all construction document submittals to KDE for new public school buildings shall ~~now continue to~~ include the supply, waste and vent piping and associated riser diagrams to incorporate water bottle filling stations and drinking fountains to satisfy KRS 162.062.*

In our opinion, the requirements included in paragraphs (2) and (3) addressing water quality, cleaning and maintenance remain the responsibility of other governmental agencies or the local district.

At KDE's request, the Division of Plumbing has agreed to include the requirements of ~~this the previous~~ statute in its current review of the Plumbing Code for consideration by the LRC to revise this regulation and provide the possibility that the legislature might eliminate the need for overlapping reviews in the future.

UPDATE: In response to this request and related to a periodic revision to the Kentucky Plumbing Code, the Division of Plumbing proposed an amendment to **815 KAR 20:191 Minimum Fixture requirements**. This regulation incorporating the requirements of the initial law (not the current revised version) was amended at ARRS on May 12, 2020. When the amendment becomes effective, the net impact will be that review of plumbing fixtures including water bottle filling stations in school additions and renovations will be conducted by the Division of Plumbing as would be expected for plumbing fixtures and KDE will continue to review construction document submittals for new buildings for compliance with KRS 162.062.

The statute includes both “public school buildings” and “schools.”

“Public school building” is interpreted to mean any school construction whether for educational purposes or not. As such, board offices, bus garages, athletic field houses, etc. shall have plans furnished for review.

“School” is interpreted to mean a facility containing educational model program spaces as defined by 702 KAR 4:170 & 4:180.

“Any alteration of old buildings” is interpreted to mean:

1. Project related to the exterior envelope including window replacement, roof replacement, etc.
2. Project related to interior improvement including flooring and ceiling replacement; building system upgrade including HVAC, lighting and plumbing; and any other modification (regardless of impact on occupancy load) including, but not limited to GESC projects.

It is not interpreted to include “repair and maintenance” as defined in KRS 322 and KRS 323. Maintenance or repair shall not include any work which alters, modifies, or changes the original characteristics of the design.

Examples:

Schools

A new ~~or renovated~~ two floor 600 student **school** is required to have a combined total of 8 drinking fountains and water bottle filling stations ($600/75 = 8$) per 1(a). Two must be water bottle filling stations per 1(b).

A new ~~or renovated~~ 1,200 student, two floor, three wing **school** is required to have a combined total of 16 drinking fountains and water bottle filling stations ($1,200/75 = 16$). Two must be water bottle filling stations per 1(b).

“Public school building”

A two floor board office is required to have the following:

1. 2 water bottle filling stations **or**
2. 2 drinking fountains **or**
3. 1 water bottle filling station and 1 drinking fountain per 1(b).

A one floor bus garage is required to have a total of 1 drinking fountain **or** water bottle filling station 1(b).

Note the distribution requirements and the use of drinking fountain or water bottle filling station in Section 1(b).

The highlighted documents described above shall be included in the Construction Document phase submittal. If these documents do not demonstrate compliance, the project cannot be approved.

If you have any questions regarding the above, please contact me at your convenience.

Greg Dunbar, AIA
(502)564-4326 ext.4401
Greg.Dunbar@education.ky.gov