



TRANSPORTATION CABINET

Frankfort, Kentucky 40622
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Steven L. Beshear
Governor

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Secretary

MEMORANDUM

TO: Chairman Greg A. Pritchett
and Board Members
Water Transportation Advisory Board

FROM: Rebecca W. Goodman, Esq. *RWG*
Executive Director
KYTC Office of Legal Services

DATE: January 20, 2011

SUBJECT: Provisions of KRS 174.200
Application to Public and Private Riverports

A question was asked at the initial meeting of the Board regarding whether the provisions of KRS 174.200 et seq. apply to both public and private riverports. It is apparent, based upon the express language of the statutes (and the fact that there is no exclusionary language), that the statutory provisions establishing the authority apply to both public sector and private sector riverports. The Advisory Board is in fact made up of four members representing Kentucky's public riverports and two members from the "private sector associated with the waterways industry." There is nothing to indicate that private sector riverports are excluded in any way from participation on the Advisory Board.

I specifically looked at the provisions of KRS 174.210 and the requirements for eligibility to participate in the Riverport Financial Assistance Trust Fund to determine if access to the trust fund was equally shared between public and private sector interests. Although there is no explicit language in this statute to exclude private sector riverports from applying for participation in the fund, the legislature has used the phrase "riverport authority" in KRS 174.210(3) to describe the purpose of the trust fund and limit the grants. "Riverport Authority" is defined in KYS 65.510(1) as an authority established as provided in KRS Chapter 65. Since KRS Chapter 65 applies only to cities and counties, the inescapable conclusion is that a private sector riverport would not be included in the awarding of grants under KRS 174.210 since those grants are only available to riverport authorities.

If you have any questions, please feel free to contact me at (502) 564-7650.

RWG/ck



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