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James W. Martin  
*University of Kentucky*

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# Administrative Action for Efficient Debt Management: The Kentucky Case

JAMES W. MARTIN\*

Kentucky, like many other states and large units of local government, has multiple debt issuing agencies, each from a legal viewpoint operating more or less independently of the other. Moreover, certain agencies function under quite different statutory requirements from any others.<sup>1</sup>

A study of the situation in Kentucky may well be directed toward finding out: (a) whether the scattered management responsibility and the lack of unified "rules of the game" really make a practical difference; (b) whether the special efforts since late 1958 directed toward improving state debt management have achieved significant results; (c) whether the experience in Kentucky suggests a policy for other states or cities concerned with the development of a unified debt policy and efficient administration; and (d) whether there are major areas of unexplored debt management improvement. This paper reports an examination of these issues with emphasis on executive branch, rather than legislative action. Legislation, however, cannot be ignored; in large part it is the immediate setting for the administrative results and certainly presents some of the difficulties.

## THE SETTING

In Kentucky prior to 1960 revenue bonds were authorized by several statutes,<sup>2</sup> excluding those concerned with public school

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\* Director of Bureau of Business Research, University of Ky. Although the author is exclusively responsible for the content of this paper, he has been greatly aided by Deputy Commissioner Donald Bradshaw, Kentucky Department of Finance, and by several other members of the department staff. The study is an outgrowth of an inquiry under the sponsorship of former Commissioner O. F. Traylor.

<sup>1</sup> The diversity will be documented at length below.

<sup>2</sup> Ky. Rev. Stat. (hereinafter referred to as KRS and cited to the 1960 compilation of laws.) §§ 56.440-.990, 59.010-.130, 148.030-.040, 150.610, 162.310-  
(Footnote continued on next page)

buildings for individual districts. Also, the State Property and Buildings Commission, charged under KRS Chapter 56 with certain revenue debt administration, had responsibility for managing the state's general obligation debt.<sup>3</sup> Each separate statute authorizing a borrowing procedure has usually placed responsibility in a different set—or in several sets—of hands. For example, KRS 162.310 to 162.380 provide for separate revenue debt for the University of Kentucky and for each of the five state colleges. On the other hand, some of the other statutory provisions, as a practical matter, have been inoperative.

Each of the legal provisions cited laid the groundwork for one or more separate debt administrations. The situation in Kentucky is characterized, moreover, by the lack in every debt administration agency of any person specially trained or experienced in debt management and devoting his full time to that function. Rather, debt management has been treated in every case as an incidental side line. Indeed, in some instances the issuing agency has seemed to assume that no management activity could be regarded as being essential, that the matter would take care of itself. The Department of Finance, which serves in a staff capacity for the State Property and Buildings Commission, is in a position that such a debt management assignment would be consistent with its other duties. But the volume of buildings commission debt (eight issues at the end of fiscal year 1958) has been so limited that no specialist on public credit has been employed except on a contract or temporary basis.

The general statute provides that no state agency is authorized "to make plans and specifications, advertise for bids, let contracts or incur any financing commitments, either in the way of a charge against public funds or in the way of negotiations for issuance of revenue bonds, for any building project requiring the expenditure of more than \$10,000, without first securing

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(Footnote continued from preceding page)

.380, 177.390-.570, 180.070-.990, 247.180-.190. Some of the provisions in these several statutes afford alternative procedures to the basic plan in KRS 56.440-.990. *Kentucky Lake Vacation Land, Inc. v. State Property and Bldgs. Comm'n*, 333 S.W.2d 779 (Ky. 1960).

<sup>3</sup> KRS 177.580-.740. The first bonds issued under this authority were sold in November, 1957 after approval in *Dalton v. State Property & Bldgs. Comm'n*, 304 S.W.2d 342 (Ky. 1957). See also, *Walton v. Carter*, 337 S.W.2d 674 (Ky. 1960).

the approval of the department" (Department of Finance).<sup>4</sup> In those instances involving bonds the department must "submit its findings to the Commission" (State Property and Buildings Commission) for final approval, modification, or disapproval. Until the calendar year 1958 such approval had been handled in a more or less perfunctory fashion.

#### CONSULTANT'S SURVEY

It was in such a setting that the Department of Finance during the third quarter of calendar year 1958 sought a consultant's review of the whole state and institutional debt administration problem. Revenue debt management was the focal point. The study of this aspect of the problem was reported in December 1958.<sup>5</sup>

As the consultant expected,<sup>6</sup> the survey of bond indentures and lease contracts,<sup>7</sup> as well as of legal provisions,<sup>8</sup> and of various funds resulting from bond issues revealed that the variations in policy were even more extensive than the statutory diversity seemed to imply. Several examples, some of them statutory, some wholly or partly administrative, will tend to clarify the situation.

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<sup>4</sup> KRS 56.490.

<sup>5</sup> Martin, "Kentucky State Revenue Debt Administration," (unpublished report to the Ky. Comm'r of Finance).

<sup>6</sup> Martin, "A Plan for Georgia 'Authority' Administration" (issued by Georgia Governor's Commission on Economy and Reorganization showing only title and author, Dec. 1959) deals with a more extensive example.

<sup>7</sup> These are largely on file with the Kentucky Department of Finance (cited Dept. of Fin.). A few, however, may be found only in the office of the issuing agency.

<sup>8</sup> See statutes cited in note 2 *supra*; see also the following cases construing this (and kindred) legislation: Turnpike Authority of Ky. v. Wall, 336 S.W.2d 551 (Ky. 1960); Kentucky Lake Vacationland, Inc. v. State Property and Bldgs. Comm'n, 333 S.W.2d 779 (Ky. 1960); Guthrie v. Curlin, 263 S.W.2d 240 (Ky. 1953); Preston v. Clements, 313 Ky. 479, 232 S.W.2d 85 (1950); Rice v. Watkins, 306 Ky. 41, 206 S.W.2d 65 (1947); Speer v. Kentucky Children's Home, 278 Ky. 225, 128 S.W.2d 558 (1939); Long v. Mayo, 271 Ky. 192, 111 S.W.2d 633 (1937); J. D. Van Hooser & Co. v. University of Ky., 262 Ky. 581, 90 S.W.2d 1029 (1936); Hughes v. State Bd. of Health, 260 Ky. 228, 84 S.W.2d 52 (1935); State Highway Comm'n, v. King, 259 Ky. 414, 82 S.W.2d 443 (1935); Clay v. Board of Regents, 255 Ky. 846, 75 S.W.2d 550 (1934); Estes v. State Highway Comm'n, 235 Ky. 86, 29 S.W.2d 583 (1930); Bloxton v. State Highway Comm'n, 225 Ky. 324, 8 S.W.2d 392 (1928). Although some of the litigation has dealt (especially under KRS chs. 58 and 162) with local revenue loans, it is generally not mentioned. Only a few cases among the earlier decisions concerned with state agency borrowing are cited.

Though the writer had the gracious aid of Assistant Attorney General Paul Hunley and Dean W. L. Matthews, Jr., in interpreting certain legal aspects of the debt administration problem, neither of these men has any responsibility for this paper.

1. Although some statutes authorize or require that the debt contract be secured by a first claim on earnings alone,<sup>9</sup> others authorize or require an outright lien against the property constructed or otherwise acquired with debt proceeds.<sup>10</sup> But the indentures are not consistent even in reflecting the statutory policy. Incidentally, such a lien against state property is held by many constitutional authorities to be inconsistent with the state constitution.<sup>11</sup>

2. The provisions regarding the marketing of bonds are full of inconsistencies. For example, by statute a state college may borrow at a cost of five per cent to six per cent<sup>12</sup> if one procedure is adopted but may not do so under an available alternative.<sup>13</sup> Again, under one procedure the technicalities of statutory procurement are required for bond sales of the college;<sup>14</sup> under the alternative approach<sup>15</sup> the securities may be sold "in such manner and upon such terms"<sup>16</sup> as the administrator deems proper. In the former instance, there is a superfluous requirement of local newspaper advertising and *three* Bond Buyer insertions.<sup>17</sup> Some of the indentures provide for written notice to all prospective bidders; others lay down no such specific marketing provisions. One of the most frequently invoked statutes provides<sup>18</sup> for a recital in the contract of the minimum initial rents, tolls, fees, or other charges to be imposed to meet debt service and related requirements; but only two of the fifteen indentures examined on this particular score observed the statutory directive. The actual recital usually pledges "reasonable and just" charges.

3. Although the bond contracts generally prescribe accounting requirements, particularly as to special funds, whether or not required by statute, few of them specify anything about audits.

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<sup>9</sup> *E.g.*, KRS 56.520.

<sup>10</sup> *E.g.*, KRS 162.200, which is incorporated by reference in KRS 162.350. *But see* the apparently contradictory provision in KRS 162.380.

<sup>11</sup> Particularly with Ky. Const. §§ 157a and 177. The courts seem to have found no attempts at legislation contrary to the prohibition against lending the state's credit unconstitutionally.

<sup>12</sup> KRS 162.170-.180.

<sup>13</sup> KRS 56.520(2).

<sup>14</sup> KRS 56.520(3).

<sup>15</sup> KRS 162.340-.380 which incorporates the earlier part of the chapter by reference.

<sup>16</sup> KRS 162.180.

<sup>17</sup> A single Bond Buyer advertisement, as a practical matter, is as effective.

<sup>18</sup> KRS 162.360.

The statutory requirements on these points appear to have little influence on the provisions of the indentures. In some cases, subsequent operating *practice* follows neither the statutory requirement nor the contractual provision.

4. There is a pervasive lack of consistency and of economy in fund administration incident to revenue debt. The provisions of debt indentures vary widely as to the investment of bond, revenue, maintenance, sinking, and other funds. The contract provisions, however, influence the actual administration of the funds little if at all. There are sizable holdings of uninvested cash in the funds of issues where the administrator has contracted to keep them invested as well as in cases involving no such express commitment.<sup>19</sup> Ultimate state loss from the inefficient administration of bond, maintenance, sinking, and other funds has been continuous and substantial. Indeed, only one of the nine active debt administrator agencies on June 30, 1958, had its funds economically<sup>20</sup> invested.

5. The administration of other financial aspects of the revenue debt program is lax and in some cases contrary to the statute, to the bond indenture, or to both. In the case of certain debt contracts, the statute<sup>21</sup> requires the maintenance of specified funds and directs the disposition of revenue from rental or other receipts and the method and timing of payment to sinking and other funds. In other cases, the indenture, without statutory requirement, includes similar provisions.<sup>22</sup> In certain cases the appropriate receipts are simply not paid into the specified funds as provided by statute or by contract.<sup>23</sup>

Having uncovered evidence of poor management such as the preceding paragraphs illustrate, the consultant, who indicated his

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<sup>19</sup> An example of the former was an educational institution which maintained about \$100,000 uninvested. The latter is illustrated by one toll bridge issue involving noninvestment of about \$1.2 million. At late 1959 interest rates, the administrator was wasting taxpayers' money in this latter case by noninvestment amounting to about \$60,000 annually.

<sup>20</sup> The text refers to investment within statutory limitations. Most of the statutes are so drawn as to preclude the most economical fund administration.

<sup>21</sup> *E.g.*, KRS 58.070-.130.

<sup>22</sup> *E.g.*, issues under KRS 56.500-.990.

<sup>23</sup> It should be emphasized that the various administrative failures were inadvertent or, at worst, negligent. No evidence of any deliberate wrongdoing incident to debt management has become apparent. In at least one case the formal irregularity was tacitly approved by the trustee—a private trust company.

conviction that all revenue debt administration of the state and of its agencies should be the legal responsibility of one agency,<sup>24</sup> recommended (pending possible statutory revision) four kinds of initial *administrative* action by the State Property and Buildings Commission and its staff agency, the Department of Finance.

1. It was suggested that the commission and the department develop and document policies for debt issuance<sup>25</sup> and for debt approvals under KRS 56.490, so that all debt-issuing agencies could know in advance what conditions a debt issue proposal should meet. Among other things, these agencies needed to specify what must appear on the face of the indenture; where debt fund deposits would be kept; the maximum interest rate within statutory limitations; the bond sale procedure; accounting and auditing requirements, if any; investment policy as to bond, revenue, maintenance, reserve, and sinking funds; limitations on maturities and character of call provisions; description of bond contract form; conformity with state fiscal procedure if required; the identity of the paying agent; method of execution and delivery of bonds; the character of the lease or other agreements to assure payment of debt service; and the requirements as to amount and timing of payments of debt service money to appropriate and clearly identified paying agents.

2. Another proposal was that the departmental staff assume an obligation to take a critical look at each debt proposal in order to assure conformity with the accepted standards.<sup>26</sup> This task would need to be undertaken initially by a senior economics-trained budget analyst as a part of the basic administrative procedure. In other words, the work of fiscal agents and bond legal counsel must be reviewed for administrative conformity with policy.<sup>27</sup>

3. Closely related to the second proposal was a third to the effect that (pending provision for a more professionalized staff) the debt-management budget staff member continually scrutin-

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<sup>24</sup> That is, the State Property and Bldgs. Commission. Martin, "Kentucky State Revenue Debt Administration."

<sup>25</sup> In keeping with KRS 56.500-.990.

<sup>26</sup> This suggestion is a management verification to assure conformity with the financial examination contemplated by KRS 56.490.

<sup>27</sup> To the attorney, this check may seem superfluous. In the writer's own debt management experience, however, some revision of the very best fiscal agents' and attorneys' work to secure *policy* or *procedural* conformity has invariably been necessary.

ize debt operations after bonds are floated. In the case of issues administered for the State Property and Buildings Commission by the Department of Finance, the outgrowth of this vigilance would be departmental or buildings commission actions; in the case of issues administered by some other agency, the budget staff man would remind the appropriate agency of needed action. In both cases the management action would be directed primarily; (a) toward assuring that proper rental or other payments are made to revenue, maintenance, sinking, and other funds in accordance with the terms of the debt contract; (b) toward assuring that debt proceeds (bond funds) are employed as prescribed by the legal arrangement; and (c) toward guaranteeing that bond, revenue, maintenance, sinking, and other funds are properly invested and otherwise handled. There are other tasks which are not so time-consuming such as (a) maintaining an occasional check (with engineering assistance) on the maintenance of property, especially buildings, and (b) seeing that money to pay coupons and retire bonds is deposited on a timely basis.

4. Mechanics of administration, fitted into established legally-prescribed procedures, was suggested in specific detail.

#### OFFICIAL ACTION

After the debt management policy proposal had been circulated among members of the State Property and Buildings Commission, it was determined that the plan would be accepted in its entirety but on an informal basis. That is, although all agencies would be informed of the policy criteria, no official regulations would be adopted.<sup>28</sup> Meantime, the review of debt proposals and the attention to fund administration would be as recommended.

The consensus was reached early in 1959; but, partly because of multiple changes in Commissioners of Finance and partly because of shortages in experienced staff in the Division of the Budget, the full operation of the plan was not realized until after adjournment of the legislative session of 1960.

Meantime, the General Assembly of 1960 itself both simplified and complicated the management problems. In addition to authorizing a referendum to approve one hundred million dollars

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<sup>28</sup> This decision was the result of partisan considerations not particularly related to debt matters; it was not dictated by any disagreement between the consultant and the agencies or individual officials concerned.

of additional general obligation debt<sup>29</sup> and to provide for implementation of a veterans' bonus by means of purportedly general obligation debt previously subject to referendum,<sup>30</sup> both measures to be administered by the State Property and Buildings Commission, the General Assembly enacted a provision<sup>31</sup> making the buildings commission responsible for the administration of all new revenue debt except that issued by or in behalf of the University of Kentucky or the state colleges. It undertook also to authorize buildings commission debt for voting machines.<sup>32</sup> The same 1960 regular session of the General Assembly enacted, and the Governor approved, a number of measures apparently contrary to the general legislation clearly designed to concentrate debt administration responsibility in the State Property and Buildings Commission. Some of the apparently conflicting measures<sup>33</sup> may have been repealed by implication by KRS 56.450 (4), as the latter became effective subsequently. However, even if the repeal is legally effective, there is reason to believe that provisions for Kentucky Public School Authority borrowing<sup>34</sup> can be reconciled—that the administrative plan set up in the statute providing for it is legally intact.

Perhaps more disturbing than the administrative-policy in-

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<sup>29</sup> Ky. Acts 1960 ch. 106, KRS 177.700-.820. The referendum approved these bonds at the Nov. 1960 general election.

<sup>30</sup> Ky. Acts 1960 ch. 15, KRS 40.190-.230. Construction of the referendum occurred in *Stoval v. Gartrell*, 332 S.W.2d 256 (Ky. 1960). In *Watkins v. State Property and Bldgs. Comm'n*, 342 S.W.2d 511 (Ky. 1961), and *Grise v. Combs*, 342 S.W.2d 680 (Ky. 1961), originally decided Aug. 18, 1960 but later modified, the Court of Appeals held that the "full faith and honor of the Commonwealth is pledged to keep in effect a general retail sales tax in sufficient rates or amounts and for a sufficient length of time, to pay the principal and interest on the bonds when due." The state fiscal agent bond counsel, since the *Watkins* opinion was made final Feb. 1, 1961, has prepared a "Memorandum re: \$100,000,000 Commonwealth of Kentucky Voted Veteran's Bonus Bonds," in which he takes the position that the issue is a "general obligation" debt within the meaning of 12 U.S.C. § 24(7) (Supp. 1960).

<sup>31</sup> Ky. Acts 1960 ch. 68, KRS 56.450. The part of the revenue debt omitted from this provision involves most of the issues and some of the most difficult administrative problems having to do with the situation subsequent to formal authorization and sale.

<sup>32</sup> Ky. Acts 1960 ch. 128, KRS 125.310-.990. This legislation seems to be confused, and its constitutionality is said to be in doubt.

<sup>33</sup> Ky. Acts 1960 ch. 81, KRS 162.510-.620; Ky. Acts 1960 ch. 173, KRS 175.410-.990; and Ky. Acts 1960 ch. 179, KRS 183.781-.793. As to the last note especially KRS. 183.784. In *Turnpike Authority v. Wall*, 336 S.W.2d 551 (Ky. 1960), the court held KRS 175.410-.990 constitutional; but it did not pass on whether KRS 56.450(4) repealed the provisions as to administrative responsibility.

<sup>34</sup> Ky. Acts 1960 ch. 81, KRS 162.510-.620.

consistencies is the evidence that the presently projected debt was only partly worked out as a phase of an integrated long-term financial plan. There seems no doubt that the Department of Finance carefully examined educational institution and bonus borrowing in relation to long-term budget forecasts. It appears that, in advance of the legislation, the department made no such adequate study as to the implications of the borrowing authorized for education and for over-all purposes having to do with the state road fund. Using the aggregate of projected borrowing which affects the state road fund as an example, one would suppose that staff examination of such questions as the following would be essential to sound policy-making: What, both with and without the projected borrowing, are the road-fund revenues to be anticipated over a period<sup>35</sup> subsequent to expenditure of the bond proceeds? What amounts can be allocated to system-by-system construction? What amounts must be provided for the increasing requirements<sup>36</sup> of maintenance? What financial effect will debt service demands on the state road fund have on these programs?

Two developments since adjournment of the 1960 General Assembly are of interest. The first occurrence has to do with the plan for borrowing for higher education. Beginning by early 1959 the state budget staff and the educational institutions were planning the financing of institutional buildings by State Property and Buildings Commission borrowing.<sup>37</sup> By the time of the convening of the 1960 General Assembly financial plans were sufficiently mature to be reflected in the Governor's budget recommendations<sup>38</sup> though, oddly enough, the borrowing plan was not

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<sup>35</sup> A long-range financial forecast is made for 15 or 20 years (address of Eugene C. Holshouser, submitted for Highway Research Board publication with Dr. Holshouser's letter of Nov. 14, 1960, p. 4). The more detailed estimates for actual budget purposes are for about six years. Martin, "Problems in Formulating Highway Construction Programs" 3 (1960).

<sup>36</sup> Maintenance requirements are advancing as to certain systems for three principal reasons: (1) The public demands generally require higher standards than formerly. (2) The highways constructed with bond proceeds as well as with current receipts add mileage to the roads and streets to be kept in good condition. (3) The interstate system, in particular, will rapidly step up financial requirements for maintenance. This problem is sufficiently acute nationally that the Highway Research Board has a special study of the problem underway.

<sup>37</sup> Bradshaw, "Revenue Debt Administration" (Deputy Commissioner of Finance report to Commissioner, Dec. 2, 1960).

<sup>38</sup> Commonwealth of Kentucky Executive Budget 1960-1962 and Capital Outlay Budget (Sup.) 23-54. See Governor's Budget Message (original form) 3.

shown in the official documentation. Although, after study of a comprehensive legal opinion,<sup>39</sup> budget and institutional personnel agreed that university and college revenue debt should be employed pursuant to KRS 162.310 to 162.380, thus altering administrative arrangements, the basic financial plan remained otherwise largely intact.

As an outgrowth of the projected comprehensive educational institution financing and of the change in management plan, coupled with the recency of the debt administration reorganization, the Department of Finance retained private debt counsel<sup>40</sup> for the State Property and Buildings Commission to assist in current staff work. In effect, of course, this fiscal agency contract not only aided in the departmental review for the State Property and Buildings Commission<sup>41</sup> but also directly produced the detail of the fiscal plans for each institution and the bond indentures and lease agreements to implement them. One by-product of this activity is a new practice,<sup>42</sup> when appropriate, of providing for open-end Federal Housing and Home Finance Agency (FHHA) borrowing for student housing with a grouping of two or more dormitories to provide rental security.<sup>43</sup> This over-all fiscal agency project contributes directly to the objective of policy unification. Until the department directly employs highly skilled debt counsel, the retention of a fiscal agent for institutional financing appears to be the one tenable means for policy unity and of the effective utilization of imaginative innovation.

The second major administrative outgrowth of the 1960 General Assembly has involved management effort to overcome some of the policy disintegration suggested by the legislation to which reference has been made above. Through contact with the agencies directly concerned, including the projected Toll Road Commission, the Department of Finance staff has worked extensively on plans for borrowing by the technically unrelated debt management officials apparently provided by the General Assembly.<sup>44</sup> That the schemes for new financing have advanced

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<sup>39</sup> Grafton, "Financing Academic Building" 1-43 (Jan. 11, 1960).

<sup>40</sup> Blythe and Co. and Graham and Conway jointly.

<sup>41</sup> As background for the approval required by KRS 56.490.

<sup>42</sup> Apparently very satisfactory to, and certainly approved by, FHHA.

<sup>43</sup> Heretofore each FHHA loan has involved only one building.

<sup>44</sup> That is, these agencies were set up unless the amendment codified as KRS 56.450(4) effected an implied repeal of part or all the scattered disintegrating provisions for handling debt problems.

collaboratively is some contribution to management integration policy even though in the long run it cannot be a satisfactory substitute for orderly legislation.<sup>45</sup>

The Department of Finance administrative actions taken to early 1961 are partly operative and partly prospective. As to the former, the most basic phase is a comprehensive administrative review of each proposed bond issue to assure conformity with the established debt management standards announced at the beginning of the program. Some action has been taken also looking toward assuring the orderly investment of funds available for investment.<sup>46</sup>

Perhaps equally important, the Department of Finance has worked out most of the ingredients in a plan for looking after routines. Beginning early in 1959, there was a plan for administrative reporting on the status of funds controlled through the State Treasury. In the months since, some deficiencies have obtruded themselves, and the plan has been revised.

Heretofore, educational institutions have reported as of the end of each fiscal year. Under the new plan the department will secure two reports—one in midyear—and will make plans for interim assembly of information from inspection each spring and each fall when departmental staff members visit the several educational institutions. These arrangements will greatly facilitate the department's provision of aid to these institutions, both in complying with contractual obligations and in managing investments.<sup>47</sup>

Meantime, better routines have been set up for notice to the administrator concerned as to other kinds of necessary actions. Examples of such debt management actions are (a) payments into particular funds as provided by bond indentures, (b) observation of contractual dates for remittances to paying agents, and (c) assembly of information as to existing fund assets.

Along with the plans for appropriate routines such as the

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<sup>45</sup> Bradshaw, *supra* note 37.

<sup>46</sup> Little, if any, actual progress on this score has been made as to educational institution debt; but plans have been matured.

<sup>47</sup> At the same time the senior budget staff man assumed the responsibility discussed in the text, he was also asked to keep up a current study of the kindred problem of investing certain trust and insurance funds of the state. Some such investment problems cause equal or greater difficulty.

The new plan, obviously, will render possible reports twice a year, instead of annually. This revision should improve compliance with KRS 56.570.

kinds indicated, personnel rearrangements are being perfected. In addition to stringencies caused by personnel turnover in the budget staff and by diversion of manpower to prepare the estimates for the biennial budget, the staff has been interrupted by the appointment of the senior budget analyst in charge of this work as Deputy Commissioner of Finance. Thus, he must continue the work or provide for the development of the problem by other senior analyst personnel. This personnel reassignment, although a delaying factor, should not otherwise interfere with the smooth working out of the plans just sketched.

Although the Department of Finance reports<sup>48</sup> of *state* funded debt<sup>49</sup> are reasonably adequate, and plans for their improvement are well advanced, the state does not systematically make available to creditors equally significant data concerning *overlapping obligations*. It appears probable that the commonwealth could significantly improve its credit standing and that of cities, counties, and school and special districts in the market for municipals by the simple device of fully reporting all funded debt periodically. Also comparative analysis of such data would help additionally. Data for state, school, and county obligations are already largely assembled though not published fully and systematically. The information regarding city and special district debt would need to be assembled *de novo*. The Louisville Bond Club has suggested to the Governor that this aspect of the debt administration problem be examined by a citizens' advisory committee.<sup>50</sup>

#### CONCLUSION

In Kentucky, as one might expect in other states and cities which have multiple revenue debt management without unified control, the survey of 1958 and 1959 revealed numerous inadvertent irregularities. These included particularly a failure to take steps toward unified policy based on adequate staff investigation, to observe statutory and contractual obligations, and to assure consistent and economically sound investment of either debt proceeds or of other funds for which the contract provided.

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<sup>48</sup> *E.g.*, Kentucky 1960-1962 Executive Budget viii-x.

<sup>49</sup> There is no current debt except merely for items in process of clearing.

<sup>50</sup> Resolution of Jan. 18, 1961. Compare Ed. in *Ashland Daily Independent*, Jan. 25, 1961.

The survey revealed that these irregularities could be eliminated completely for new debt and, in large part, for outstanding obligations by either of two approaches. The comprehensive remedy would require the statutory placement of all debt administration responsibility in one office administered by skilled debt management manpower. If the state should elect to sacrifice efficiency for the decentralization policy thus far pursued, it could secure many of the elements of debt management efficiency—but at greater cost—by providing skilled personnel in the Department of Finance directly to serve State Property and Buildings Commission and in an advisory capacity to assist the several other debt administration agencies. Meantime, the 1960 General Assembly has made progress toward a clear state policy more difficult in certain areas unless it has repealed its own enactments.<sup>51</sup>

Without casting aside a legislative remedy<sup>52</sup> for existing debt management disintegration, the Department of Finance has initiated some and planned other administrative procedures, some of them on a strictly advisory basis, which have already effected improvements and which promise to bring about other constructive changes. If there is later a legislative consummation of the mild step toward *a state debt policy*,<sup>53</sup> then the management integration steps already taken will presumably be contributions toward implementation. Thus, the departmental activity, initiated and planned, will in any case constitute important steps in the direction of unified debt administration.

The systematic periodical publication of adequate data and analyses of Kentucky state and local debt information would be another step forward in debt-management practice. Such action would require budgetary resources for assembling available statistics and for the collection of data not now centrally available.

The Kentucky experience should prove directly suggestive to other states, large cities, and at least certain revenue-debt-using, populous counties. Many of the other governmental units undoubtedly lack approval authority centered in one set of hands,<sup>54</sup> but this sketch has shown that such authority is not essential if

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<sup>51</sup> As suggested in the text above and documented in notes 31-33 *supra*.

<sup>52</sup> The Dept. of Fin. informally recommended the content of KRS 56.450(4).

<sup>53</sup> As distinguished from numerous policies and the lack of policy as heretofore. The step referred to is KRS 56.450(4).

<sup>54</sup> Such as is provided in KRS 56.490.

imaginative advisory assistance is provided. That a sympathetic chief executive should make such aid available through a budget staff can doubtless render its acceptance more unanimous among debt-incurring agencies than might otherwise be the case. The Kentucky experience appears to suggest that stabilized debt management personnel, as well as clearly defined objectives, can contribute immeasurably to administrative practice pointing toward a well-operated governmental revenue debt program.<sup>55</sup>

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<sup>55</sup> The most essential ingredient in a satisfactory debt administration program, according to one view, has to do with decisions as to whether to borrow or not to borrow. Although this paper is not directed primarily toward solving this problem, the experience reported includes the exercise of some Department of Finance influence on such decision making, part of it of a purely persuasive character.

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