

**CHAPTER 50****(SB 155)**

AN ACT relating to the Kentucky Jobs Development Act and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

➔Section 1. KRS 154.24-010 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings in KRS 154.24-010 to 154.24-150:

- (1) "Affiliate" has the same meaning as in KRS 154.22-010;
- (2) "Agreement" means the service and technology agreement made pursuant to KRS 154.24-120, between the authority and an approved company with respect to an economic development project;
- (3) "Approved company" means any eligible company seeking to locate an economic development project from outside the Commonwealth into the Commonwealth, or undertaking an economic development project in the Commonwealth for which it is approved pursuant to KRS 154.24-100;
- (4) "Approved costs" means fifty percent (50%) of the total of the start-up costs up to a maximum of ten thousand dollars (\$10,000) per new full-time job created and to be held by a Kentucky resident subject to the personal income tax of the Commonwealth, plus fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;
- (5) "Assessment" means the "service and technology job creation assessment fee" authorized by KRS 154.24-110;
- (6) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;
- (7) "Average hourly wage" means the wage and employment data published by the Office of Employment and Training within the Department of Workforce Investments within the Education Cabinet collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:
  - (a) Manufacturing;
  - (b) Transportation, communications, and public utilities;
  - (c) Wholesale and retail trade;
  - (d) Finance, insurance, and real estate; and
  - (e) Services;
- (8) "Commonwealth" means the Commonwealth of Kentucky;
- (9) "Economic development project" or "project" means a new or expanded service or technology activity conducted at a new or expanded site by:
  - (a) An approved company; or
  - (b) An approved company and its affiliate or affiliates;
- (10) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other entity engaged in service or technology and meeting the standards promulgated by the authority in accordance with KRS Chapter 13A;
- (11) "Employee benefits" means nonmandated costs paid by an approved company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;
- (12) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;
- (13) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state tax imposed by KRS 141.020;
- (14) "In lieu of credits" means a local government appropriation to the extent permitted by law, or other form of local government grant or service benefit, directly related to the economic development project and in an

amount equal to one percent (1%) of employees' gross wages, exclusive of any noncash benefits provided to an employee, or the provision by a local government of an in-kind contribution directly related to the economic development project and in an amount equal to one half (1/2) of the rent for the duration of the agreement;

- (15) "Inducements" means the tax credits allowed and the assessment authorized by KRS 154.24-110, which are intended to induce companies engaged in service and technology industries to locate or expand in the Commonwealth;
- (16) "Person" means an individual, sole proprietorship, partnership, limited partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation any instrumentality, division, political subdivision, district, court, agency, or department thereof;
- (17) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;
- (18) "Rent" means:
- (a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved activity for which the inducement has been granted; or
  - (b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved activity for which the inducement has been granted as determined by the authority using criteria which is customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized;
  - (c) Rent shall include the customary cost of occupancy, including but not limited to property taxes, heating and air-conditioning, electricity, water, sewer, and insurance;
- (19) (a) "Service or technology" means either:
1. Any activity involving the performance of work, except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction, manufacturing, wholesale trade, retail trade, real estate rental and leasing, educational services, accommodation and food services, and public administration in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication; or
  2. Regional or headquarters operations of an entity engaged in an activity listed in subparagraph 1. of this paragraph.
- (b) Notwithstanding paragraph (a) of this subsection, "service or technology" shall not include any activity involving the performance of work by an individual who is providing direct service to the public pursuant to a license issued by the state or an association that licenses in lieu of the state ***unless seventy-five percent (75%) of the services provided by the eligible company from the project are provided to persons located outside the Commonwealth during the period in which it receives the inducements authorized in KRS 154.24-110;*** and
- (20) "Start-up costs" means the acquisition cost associated with the project related to the furnishing and equipping the building for ordinary business functions, including computers, furnishings, office equipment, the relocation of out-of-state equipment, and nonrecurring costs of fixed telecommunication equipment as verified and approved by the authority in accordance with KRS 154.24-130.

➔Section 2. Whereas Kentucky's export business extends beyond the manufacture of goods to the provision of services, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Signed by Governor April 10, 2008.**