

CHAPTER 196

(HB 382)

AN ACT relating to fiscal matters, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. KRS 96.895 is amended to read as follows:

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Book value" means original cost unadjusted for depreciation as reflected in the TVA's books of account;
 - (b) "Fund" means the regional development agency assistance fund established in subsection (4) of this section;
 - (c) "Fund-eligible county" means one (1) of Adair, Allen, Ballard, Barren, Bell, Butler, Caldwell, Calloway, Carlisle, Christian, Clinton, Cumberland, Edmonson, Fulton, Graves, Grayson, Harlan, Hart, Henderson, Hickman, Livingston, Logan, Lyon, Marshall, McCracken, McCreary, Metcalfe, Monroe, Muhlenberg, Ohio, Russell, Simpson, Todd, Trigg, Union, Warren, Wayne, Webster, or Whitley Counties;
 - (d) "Regional development agency" or "agency" means a *special purpose governmental entity as defined in KRS 65A.010(9)* ~~local industrial development authority established under KRS 154.50-301 to 154.50-346~~ that is designated by a fiscal court to receive a payment pursuant to this section;
 - (e) "TVA" means the Tennessee Valley Authority; and
 - (f) "TVA property" means land owned by the United States and in the custody of the TVA, together with improvements that have a fixed situs on the land, including work in progress but excluding temporary construction facilities, if these improvements either:
 1. Were in existence when title to the land on which they are situated was acquired by the United States; or
 2. Are allocated by the TVA or determined by it to be allocable to power. However, manufacturing machinery as interpreted by the Department of Revenue for franchise tax determination; ash disposal systems; and coal handling facilities, including railroads, cranes and hoists, and crushing and conveying equipment, shall be excluded.
- (2) Book value shall be determined, for purposes of applying this section, as of the June 30 used by the TVA in computing the annual payment to the Commonwealth that is subject to redistribution by the Commonwealth.
- (3) Except for payments made directly by the TVA to counties, the total fiscal year payment received by the Commonwealth of Kentucky from the TVA, as authorized by Section 13 of the Tennessee Valley Authority Act, as amended, shall be prorated thirty percent (30%) to the general fund of the Commonwealth and seventy percent (70%) among counties, cities, and school districts, as provided in subsections (6) and (7) of this section.
- (4)
 - (a) The regional development agency assistance fund is hereby established in the State Treasury.
 - (b) The fund shall be administered by the Department for Local Government for the purpose of providing funding to agencies that are designated to receive funding in a given fiscal year by the fiscal court of each fund-eligible county through the Regional Development Agency Assistance Program established in KRS 96.905.
 - (c) The fund shall only receive the moneys transferred from the general fund pursuant to subsection (5) of this section.
 - (d) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward into the succeeding fiscal year. Any interest earnings of the fund shall become a part of the fund and shall not lapse.

- (5) (a) For fiscal years beginning on or after July 1, ~~2020~~[2018], a portion of the total fiscal year payment received by the Commonwealth that is allocated to the general fund shall be transferred from the general fund to the regional development agency assistance fund established in subsection (4) of this section.
- (b) This portion shall be equal to~~:-~~
- (a) ~~In fiscal year 2018-2019, two million dollars (\$2,000,000);~~
- (b) ~~In fiscal year 2019-2020, four million dollars (\$4,000,000); and~~
- (c) ~~In each fiscal year, beginning with the 2020-2021 fiscal year,} six million dollars (\$6,000,000).~~
- (c) ***Distribution of these moneys shall be made by dividing the amount in paragraph (b) of this subsection equally among each fund-eligible county.***
- (6) The payment to each county, city, and school district shall be determined by the proportion that the book value of TVA property in such taxing district, multiplied by the current tax rate, bears to the total of the book values of TVA property in all such taxing districts in the Commonwealth, multiplied by their respective tax rates. However, for purposes of this calculation, each public school district shall have its tax rate increased by thirty cents (\$0.30).
- (7) (a) As soon as practicable after the amount of payment to be made to the Commonwealth is finally determined by the TVA, the Department of Revenue shall determine the book value of TVA property in each county, city, and school district and shall prorate the payments allocated to counties, cities, and school districts under subsection (3) of this section among the distributees as provided in subsection (6) of this section.
- (b) The Department of Revenue shall:
1. Certify the payment due each ***county, city, and school district, including the amount distributed to the county under subsection (5) of this section,***~~{taxing district}~~ to the Finance and Administration Cabinet; ***and***
 2. ***Notify the Department for Local Government of that certification.***
- (c) ***Upon certification by the Department of Revenue, the Finance and Administration Cabinet***~~{which}~~ shall make the payment to such district.
- (8) In each fiscal year, after the Department of Revenue has calculated the prorated payment amount that is due to each county, ***city, and school district under subsections (6) and***~~{pursuant to subsection}~~ (7) of this section, the Department for Local Government shall ***notify in writing***~~{then make a written request to}~~ the fiscal court of each fund-eligible county ***regarding the amount that the county, city, and school district shall receive for the fiscal year, including the amount distributed to the county under subsection (5) of this section***~~{for the name and address of the agency the fiscal court designates to receive a payment from the fund pursuant to subsection (5) of this section}~~.
- (9) ~~{Within sixty (60) days of the date of the Department for Local Government's request, each fiscal court shall designate in writing one (1) agency that shall receive a share of the total amount of funds transferred to the fund in that fiscal year pursuant to subsection (5) of this section. Each agency's share shall be calculated as the total amount of funds transferred to the fund in that fiscal year divided by the total number of agencies designated to receive funds by fiscal courts of fund-eligible counties. Once the amount is determined by the Department for Local Government, the payment shall be paid by the Finance and Administration Cabinet directly to the designated agency.} No amount shall be taken from the fund to pay administrative expenses by the Department for Local Government.~~
- (10)~~{ If a fiscal court does not respond to the Department for Local Government within sixty (60) days of the date of the Department for Local Government's request, the payment otherwise due to an agency designated by that fiscal court shall be reallocated equally among the agencies that have been designated to receive payments by the other fiscal courts.~~
- (11) All agencies receiving funds under this section shall provide a written report annually, no later than October 1, to the fiscal court that designated it for payment and to the Interim Joint Committee on Appropriations and Revenue. The report shall describe how the funds were expended and the results of the use of funds in terms of economic development and job creation.}

~~(12) This section shall be applicable to all payments received after April 10, 2018, from the TVA under Section 13 of the Tennessee Valley Authority Act as amended.~~

➔Section 2. KRS 96.905 is amended to read as follows:

- (1) A Regional Development Agency Assistance Program is established to consist of a system of grants to agencies designated by fiscal courts of counties designated in KRS 96.895. Grants shall be administered by the Department for Local Government.
- (2) (a) Grants obtained under this program shall be used for:
 1. Economic development and job creation activities~~[that the agency is empowered to undertake in that county];~~
 2. Acquiring federal, state, or private matching funds to the extent possible; and
 3. Debt service for approved projects;

that the agency is empowered to undertake in that county.
- (b) Grants obtained under this program shall not be used for:
 1. Salaries;~~[or]~~
 2. Consulting fees; ***or***
 3. ***Operational expenses.***
- (3) Applications for grants from funds provided for in KRS 96.895 shall:
 - (a) Be made by the legislative bodies of one (1) or more counties entitled to receive money from the regional development agency assistance fund;
 - (b) ***Include any recipient agency as a co-applicant on the application; and***
 - (c) ***Include a concurrence letter from each legislative body entitled to receive money.***
- (4) The Department for Local Government shall review and approve grant applications from counties for agencies that operate in, or serve the interest of, the county whose fiscal court designated it to receive funding. Multiple counties may also submit a joint application requesting that part of their allotted funds be directed to an agency for a project that affects the counties.
- (5) By October 1 of each year, the commissioner of the Department for Local Government shall provide, in writing, to each the Governor and the Legislative Research Commission a listing of all applications for grants received pursuant to this section since the last report, a listing of all grants awarded, the amount of the award, the recipient agency, and the related project.
- (6) The Department for Local Government shall require that any funds granted under this section include an agreement that the recipient agency shall certify that the funds were expended for the purpose intended. The department shall determine whether the certification should be an independent annual audit or an internal certification, taking into account the size of the agency and the financial burden an independent annual audit may impose on the agency. In the case of an independent annual audit, the audit report shall include a certification that the funds were expended for the purpose intended. A copy of the audit or certification of compliance shall be forwarded to the Department for Local Government within eighteen (18) months after the end of the fiscal year.

➔Section 3. The General Assembly hereby approves and ratifies Executive Order 2021-093 dated February 11, 2021, previously extended by the General Assembly for 60 days from its effective date of February 11, 2021, and declares that the order shall be further extended for the limited purpose of facilitating the receipt of federal funds related to that emergency. Nothing in this section shall be construed to limit the extension of an emergency order under KRS 39A.090(2)(b), as amended by Acts Chapter 6.

➔Section 4. 2021 Regular Session House Bill 320/EN is amended as follows:

- (1) On page 2, line 14, after "*assets*", insert "***upon a finding the proposal is in the public interest***";
- (2) On page 3, beginning on line 9, and continuing through page 4, line 17, delete Section 2 in its entirety and that section shall have no effect on the laws of the Commonwealth of Kentucky and renumber the subsequent section accordingly;

(3) On page 4, between lines 20 and 21, insert the following language:

"(2) (a) In addition to the appropriation in subsection (1) of this section, there is hereby appropriated Federal Funds from the State Fiscal Recovery Fund of the American Rescue Plan Act in the amount of \$50,000,000 in fiscal year 2020-2021. Notwithstanding KRS 45.229, the Federal Fund appropriation in fiscal year 2020-2021 shall not lapse and shall carry forward for use in fiscal year 2021-2022.

(b) The appropriation in paragraph (a) of this subsection shall be used for projects that provide broadband service in furtherance of securing economic development opportunities for commercial and industrial customers, excluding the broadband service provider itself.";

(4) On page 4, line 21, delete "(2)", and insert "(3)" in lieu thereof;

(5) On page 4, line 23, after "(a)", insert "Related to the appropriation in subsection (1) of this section," and make "The" lower case;

(6) On page 4, line 25, delete "available", and insert "designated" in lieu thereof;

(7) On page 5, line 2, after "(b)", insert, "Related to the appropriations in subsections (1) and (2) of this section," and make "A" lower case;

(8) On page 5, line 3, after "(c)", insert, "Notwithstanding KRS 224A.1121(5)(f) and (10), and related to the appropriations in subsections (1) and (2) of this section," and make "Projects" lower case;

(9) On page 5, line 9, after "(d)", insert, "Related to the appropriations in subsections (1) and (2) of this section," and make "Project" lower case;

(10) On page 5, line 9, delete "(3)", and insert "(4)" in lieu thereof;

(11) On page 5, after line 10, insert:

"(5) (a) The agency administering the broadband deployment fund shall promulgate administrative regulations to develop a process for:

1. Receiving complaints related to insufficient broadband service;
2. Incorporating forms for the collection of data related to the complaints;
3. Reporting the information collected; and
4. Referring complaints to the Office of Attorney General, Federal Communications Commission, or Federal Trade Commission, as appropriate.

(b) The agency shall report to the Legislative Research Commission on a quarterly basis, beginning October 1, 2021, and the first day of each calendar quarter thereafter, the following information:

1. The location, by county, for each consumer complaint received related to insufficient broadband service;
2. A brief description of the complaint;
3. The broadband provider related to the complaint received;
4. The response of the broadband provider regarding the complaint received;
5. Whether the complaint was resolved to the satisfaction of the consumer; and
6. Whether a referral was made to the Office of Attorney General, Federal Communications Commission, or Federal Trade Commission."

➔Section 5. There is hereby appropriated General Fund moneys in the amount of \$140,000,000 in fiscal year 2021-2022 to the Support Education Excellence in Kentucky (SEEK) budget unit to provide full-day kindergarten. Notwithstanding 2021 HB 208/EN or any other statute or regulation to the contrary, for the school year 2021-2022, the Kentucky Department of Education shall use the school district attendance data selected by the district pursuant to 2020 Ky. Acts ch. 26, adjusted to count each kindergarten pupil in full for that respective school year, for the purpose of determining SEEK funds and any other state funding based in whole or in part on average daily attendance for the district, except that a district shall receive an amount equal to one-half (1/2) of the state portion of the average statewide per pupil guaranteed base funding level for each student who graduated early under the provisions of KRS 158.142.

➔Section 6. There is hereby appropriated Federal Funds from the Coronavirus State Fiscal Recovery Fund of the American Rescue Plan Act in the amount of \$575,000,000 in fiscal year 2021-2022 to the Employment Services budget unit for payment of interest and principal, in that order, for advances under Title XII of the Social Security Act during calendar year 2021.

➔Section 7. There is hereby appropriated Restricted Funds in the amount of \$801,500 and Federal Funds in the amount of \$40,900 in fiscal year 2021-2022 to the Office of Kentucky Nature Preserves.

➔Section 8. There is hereby appropriated General Fund moneys in the amount of \$50,000 in fiscal year 2021-2022 to the Kentucky Heritage Council for the Kentucky African American Heritage Commission.

➔Section 9. There is hereby appropriated General Fund moneys in the amount of \$1,800,000 in fiscal year 2021-2022 to the Justice Administration budget unit for one-time costs to re-establish the Northern Kentucky Regional Medical Examiner's Office. There is hereby appropriated General Fund moneys in the amount of \$1,506,300 in fiscal year 2021-2022 to the Justice Administration budget unit for the operations of the Northern Kentucky Regional Medical Examiner's Office.

➔Section 10. Whereas Section 4 of this Act requires an appropriation to be made in the current fiscal year, 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 7, 2021.