

CHAPTER 176

(HB 745)

AN ACT relating to economic development.

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

➔SECTION 1. SUBCHAPTER 21 OF KRS CHAPTER 154 IS ESTABLISHED, AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that the purpose of Sections 1 to 7 of this Act is to support economic development and job growth across this Commonwealth. In enacting this legislation, it is the intention of the General Assembly to enable the Cabinet for Economic Development to enter into a partnership with the Kentucky Association for Economic Development for the purposes of this program, herein known as the Kentucky Product Development Initiative, and to administer program funds to achieve this purpose.

➔SECTION 2. A NEW SECTION OF SUBCHAPTER 21 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 of this Act:

- (1) *"Cabinet" means the Cabinet for Economic Development;*
- (2) *"Eligible grant recipient" means a grant applicant that is a local government or an economic development authority in an economic development district in this Commonwealth that is engaged in an eligible project;*
- (3) *"Eligible project" means an economic development project that is initiated on publicly owned property or on property with a letter of intent or sale agreement for the sale to an eligible grant recipient with available matching funds for the project on a dollar-for-dollar basis, and that satisfies the evaluation criteria in Section 6 of this Act;*
- (4) *"Eligible use" means the authorized purpose for which an awarded grant may be used depending on the source of funds from the Commonwealth. "Eligible use" may include but is not limited to expenditure in any of the following categories or some combination thereof:*
 - (a) *Due diligence study;*
 - (b) *Property acquisition;*
 - (c) *Infrastructure extension or improvement;*
 - (d) *Site preparation work; or*
 - (e) *Road improvement; and*
- (5) *"Regional project" means an eligible project that is proposed by eligible grant recipients residing in different counties in this Commonwealth who submit a single grant application as co-applicants.*

➔SECTION 3. A NEW SECTION OF SUBCHAPTER 21 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Product Development Initiative is hereby established under the cabinet. The cabinet shall partner with the Kentucky Association for Economic Development to administer the program. The cabinet's administration of the program includes but is not limited to the following:*
 - (a) *Creating and making available a standardized grant application and regional grant application;*
 - (b) *Developing a standardized scoring system pursuant to Section 7 of this Act;*
 - (c) *Reviewing the applications and proposals submitted by the proposed grant recipients;*
 - (d) *Verifying the eligibility of the proposed grant recipients;*
 - (e) *Verifying that the proposed grant recipient seeks grant money for an eligible project prior to prioritizing and recommending the eligible grant recipient and eligible project to the cabinet; and*
 - (f) *Awarding grants to selected eligible grant recipients in two (2) rounds of funding.*

- (2) *Upon receipt of eligible grant recipients and eligible project recommendations and prioritization from the Kentucky Association for Economic Development and the third-party independent site selection consultant, the cabinet shall verify and process the eligible grant recipients and eligible project recommendations with the intent to approve and award grants matching the selected grant recipient's contribution to its eligible project on a dollar-for-dollar basis, under the economic development fund program pursuant to KRS 154.12-100, up to ten percent (10%) of the total funds appropriated to the Kentucky Product Development Initiative by the General Assembly.*
- (3) (a) *Prior to the first round of grant awards, the cabinet shall allocate a percentage of the total funds appropriated to this program by the General Assembly to each county in the Commonwealth. When awarding grants in the first round of funding, the cabinet shall not award grants to an eligible grant recipient or a group of eligible grant recipients in excess of the amount allocated to the county in which it or they are located, except when pooled pursuant to subsection (4) of this section. The allocation shall be made according to the following calculations:*
1. *For all counties except Jefferson County, the percentage of the fund each county is eligible to receive shall be the percentage of the state population that the county's total population makes up, then multiplied by two (2); and*
 2. *For Jefferson County, the percentage of the fund it shall be eligible to receive is the percentage of the state population that Jefferson County's total population makes up.*
- (b) *If there are funds available after the first round of grant awards, the cabinet shall initiate a second round of grant awards through the Kentucky Product Development Initiative. Any remaining funds available for program use shall be pooled and available to eligible grant recipients from all counties on a first-come, first-served basis, but each county's eligible allocation shall not exceed two million dollars (\$2,000,000) except as permitted by subsection (4) of this section.*
- (4) *For selected eligible grant recipients that are involved in a regional project, the cabinet may pool the potential allocation of funds available for each county represented by the eligible grant recipients for the grant amount awarded. For example, if a county that is eligible for up to ten percent (10%) of the program funds based on the calculations in subsection (3) of this section partners with a county that is eligible for five percent (5%) of the program funds based on the calculations in subsection (3) of this section, then the total allocation for the regional project that the cabinet may award is fifteen percent (15%).*
- (5) *Grant applicants located in a county that participates in the Rural Project Development Initiative shall be disqualified from participation in the Kentucky Product Development Initiative.*

➔SECTION 4. A NEW SECTION OF SUBCHAPTER 21 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *To participate in the Kentucky Product Development Initiative, grant applicants shall submit an application to the Kentucky Association for Economic Development that will be received by or shared with the third-party independent site selection consultant for review; and*
- (b) *Grant applicants wishing to engage in a regional project shall submit a single application to the Kentucky Association for Economic Development that will be received by or shared with the third-party independent site selection consultant for review.*
- (2) *If a grant applicant is selected as an eligible grant recipient approved under the economic development fund program, it shall comply with any incentive agreements and reporting requirements deemed necessary by the cabinet to verify that the awarded grant goes toward an eligible use.*
- (3) *If the selected grant recipient fails to comply with subsection (2) of this section or uses the awarded grant money for any purpose other than an eligible use, the selected eligible grant recipient shall forfeit and be liable to the cabinet for the full award amount.*

➔SECTION 5. A NEW SECTION OF SUBCHAPTER 21 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *In the implementation of the Kentucky Product Development Initiative, the Kentucky Association for Economic Development shall:*
- (a) *Process the grant applications;*

- (b) *Determine whether a grant applicant is an eligible grant recipient and seeking a grant for an eligible project;*
 - (c) *Evaluate the project site cited or proposed by each grant applicant in accordance with the program's evaluation model described in Section 7 of this Act and based on the criteria recommended by the third-party independent site selection consultant;*
 - (d) *Score each grant applicant's project pursuant to the scoring system described in Section 7 of this Act;*
 - (e) *Rank the grant applicants:*
 - 1. *In a manner that prioritizes the greatest return on investment, workforce creation, and relative positive impact on the community; and*
 - 2. *Based on the project site evaluation and subsequent project score described in Sections 6 and 7 of this Act;*
 - (f) *Compile a list of proposed grant recipients whose eligible project demonstrates a high level of investment potential if a grant is made, as revealed by the evaluation, scoring, and ranking process described in this section and Sections 6 and 7 of this Act;*
 - (g) *Submit the proposed grant recipients and their prioritization to the cabinet for final selection of the grant recipients;*
 - (h) *Provide detailed feedback to all grant applicants after the project site evaluation and project score are completed; and*
 - (i) *Compile an annual report for the cabinet conveying the following information about the program:*
 - 1. *A list of all program applicants;*
 - 2. *The identity of applicants who were not selected for recommendation;*
 - 3. *Trends found in feedback given to applicants who were not selected for recommendation;*
 - 4. *Eligible uses of the properties cited in the grant applications; and*
 - 5. *Any other information requested by the cabinet.*
- (2) *The Kentucky Association for Economic Development shall contract with a third-party independent site selection consultant to assist with the grant applicant site evaluations, scoring, prioritization, and recommendations described in this section and Sections 6 and 7 of this Act.*

➔SECTION 6. A NEW SECTION OF SUBCHAPTER 21 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Association for Economic Development shall evaluate each applicant's eligible project according to the criteria described in this section and Section 7 of this Act for the purposes of compiling a recommendation and score for the eligible project and project site pursuant to Section 7 of this Act.*
- (2) *The Kentucky Association for Economic Development and the third-party independent site selection consultant shall consider the requirements in the following five (5) categories in the evaluation of proposed projects:*
 - (a) *Property availability as described in subsection (3) of this section;*
 - (b) *Property development ability as described in subsection (4) of this section;*
 - (c) *Zoning availability as described in subsection (5) of this section;*
 - (d) *Transportation accessibility as described in subsection (6) of this section; and*
 - (e) *Utility adequacy as described in subsection (7) of this section.*
- (3) *The property that the eligible project occupies or is proposed to occupy shall be available. Property shall be deemed available for the purposes of this program if the property is:*
 - (a) *Publicly owned; or*
 - (b) *Property with a letter of intent or sale agreement for the sale to an eligible grant recipient.*

- (4) *The property that the eligible project occupies or is proposed to occupy shall be developable. Property shall be deemed developable if:*
- (a) *The acreage intended for development is clearly defined by either:*
 1. *The grant applicant; or*
 2. *An engineering partner during or after a site visit, if the applicant is unable to define the developable acreage; and*
 - (b) *The property is free of impediments to development, or a known impediment can be mitigated by a grant applicant. A property is free of impediments if it:*
 1. *Is located outside of the one hundred (100) year and five hundred (500) year flood zone;*
 2. *Is free of recognized environmental conditions;*
 3. *Is free of wetlands;*
 4. *Is free of state and federally threatened and endangered species;*
 5. *Is free of areas of archaeological or historical significance; and*
 6. *Possesses soils compatible with the grant applicant's intended development.*
- (5) *The property that the eligible project occupies or is proposed to occupy shall be appropriately zoned for the intended use or shall be able to be rezoned within ninety (90) calendar days. The properties surrounding the grant applicant's project site shall be zoned so they are compatible with the grant applicant's intended development and use of the project site.*
- (6) *The property that the eligible project occupies or is proposed to occupy shall be directly served by a road or roads that are compatible with the intended use of the property. Additionally, if the property is marketed as rail-served, the property shall be deemed rail-served if:*
- (a) *The grant applicant provides documentation from the rail provider that evinces that rail infrastructure exists and the rail provider actually provides rail service; or*
 - (b) *If the rail service does not exist at the time of the grant application, the grant applicant provides documentation from the rail provider that evinces that the project site will be able to be rail-served within twelve (12) months.*
- (7) *The property that the eligible project occupies or is proposed to occupy shall have access to adequate utilities and shall be served or able to be served by the following:*
- (a) *Electric infrastructure;*
 - (b) *Natural gas;*
 - (c) *Water infrastructure and a public water system;*
 - (d) *Wastewater infrastructure and a public wastewater treatment plant, excluding a septic wastewater treatment system; and*
 - (e) *Fiber telecommunications infrastructure.*

➔SECTION 7. A NEW SECTION OF SUBCHAPTER 21 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *In the administration of the Kentucky Product Development Initiative, the Kentucky Association for Economic Development, via a third-party independent site selection consultant, shall develop a scoring system for the project and the project site proposed by each grant applicant based on the total projected return on investment, key workforce characteristics, and the relative positive impact in the community.*
- (2) *The scoring system shall include:*
 - (a) *A score in each category as specified in subsection (3) of this section; and*
 - (b) *A total weighted score, which is the average of the scores in each category.*
- (3) *The scoring categories shall include but are not limited to:*
 - (a) *Projected return on investment the project will yield, which includes an assessment of the:*

1. *Likelihood of project completion at the applicant's proposed site, both with the cabinet's funding and without;*
 2. *Projected gross economic impact of the proposed project on the community;*
 3. *Projected number of jobs created by the proposed project and subsequent impact on the community; and*
 4. *A determination of the cost of the job based on the cost expended by the cabinet if it awards the requested grant amount to the applicant;*
- (b) *Key workforce characteristics, including an assessment of objective workforce data for the community in which the project is located; and*
- (c) *Relative positive impact the project will have on the surrounding community.*

➔Section 8. This Act may be cited as the Kentucky Product Development Initiative Act.

Signed by Governor April 8, 2022.