CHAPTER 118

(SB 28)

AN ACT relating to agricultural economic development and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Agribusiness" has the same meaning as in KRS 154.32-010;

(b) "Alternative fuels" has the same meaning as in KRS 154.20-400, and also includes alternative fuels generated by an agricultural production facility for the purpose of generating sustainable aviation fuel;

(c) "Application" means the documentation submitted for an eligible project that is required for preliminary approval under subsection (6)(c) of this section;

(d) "Board" means the agricultural economic development board established in subsection (3) of this section;

(e) "Eligible project" means any agricultural economic development project or proposal, including an agribusiness or alternative fuels project, that:

1. Develops necessary supply chain infrastructure within the Commonwealth;

2. Has a significant level of capital investment; and

3. Demonstrates a positive economic impact to the selected site location, which may be:

a. Quantified by the:

i. Number of farming operations impacted for each one thousand dollars ($1,000) of incentives awarded; or

ii. Increase in the volume of product or production for each one thousand dollars ($1,000) of incentives awarded; or

b. Based on econometric analysis provided by a state-funded university within the Commonwealth;

(f) "Farming operation" has the same meaning as in KRS 154.60-040;

(g) "Fund" means the agricultural economic development fund created in subsection (4) of this section; and

(h) "Incentives" means either a:

1. Direct grant of moneys;

2. Forgivable loan;

3. Low-interest revolving loan, of which no more than fifty percent (50%) of the principal of the loan is forgiven within the memorandum of agreement required under subsection (6)(c) of this section; or

4. Any combination of the incentives in subparagraphs 1. to 3. of this paragraph in conjunction with another lawfully authorized incentive award scheme;

based upon the eligible project meeting certain economic conditions.

(2) The purposes of this section are to:

(a) Provide incentives for eligible projects;

(b) Encourage the location or expansion of agricultural development in the Commonwealth; and

(c) Advance the public purposes of:

1. Improvement in the quality of life for Kentucky citizens;

2. Providing an economic stimulus to bolster in-state production of vital sustainable agricultural products and services; and

3. Creation of new sources of tax revenues for the support of public services provided by the Commonwealth.

(3) (a) The agricultural economic development board is hereby established and shall be composed of six (6) members to include:

1. The Commissioner of Agriculture or his or her designee, who shall serve as chair; and

2. Five (5) members appointed by the Commissioner, with at least one (1) person representing each of the following four (4) agricultural sectors:

a. Livestock or poultry;

b. Row crops;

c. Specialty crops; and

d. Local economic development.

(b) The members appointed under paragraph (a)2. of this subsection shall:

1. Be chosen from a list of three (3) nominees submitted to the Commissioner, with:

a. One (1) member chosen from a list provided by the Kentucky Association for Economic Development;

b. Two (2) members chosen from a list provided by the Kentucky Agricultural Finance Corporation; and

c. Two (2) members chosen from a list provided by the Agricultural Development Board;

2. Be reimbursed for expenses incurred in the performance of their duties;

3. Serve for a term of two (2) years and until a successor is appointed unless removed in accordance with subparagraph 5. of this paragraph;

4. Serve for no more than two (2) consecutive terms; and

5. Be removed by the Commissioner for good cause or if a member misses two (2) consecutive meetings without good cause.

(c) Upon the death, resignation, or removal of any member, the vacancy for the unexpired term shall be filled by the Commissioner in the same manner as the original appointment.

(d) The board shall:

1. Be attached to the Kentucky Office of Agricultural Policy for administrative purposes;

2. Meet:

a. Quarterly;

b. At the call of the chair; or

c. Upon a call of the majority of the members; and

3. Not be subject to reorganization under KRS Chapter 12.

(e) A quorum of the board:

1. Shall consist of at least three (3) members; and

2. Is required for any action to be taken by the board.

(f) The duties of the board shall include:

1. Administering the fund created in subsection (4) of this section;

2. Working with the department to develop procedures, guidelines, and criteria for:

a. Prioritizing eligible projects;

b. Determining project awards; and

c. Terminating incentives to eligible projects;

3. Preparing full meeting reports and maintaining all records and official actions of the board;

4. Receiving and reviewing applications from eligible projects;

5. Prioritizing eligible projects resulting in the maximum agricultural impact;

6. Entering into a memorandum of agreement with an eligible project;

7. Approving distributions to eligible projects and monitoring progress of those projects through the distribution process;

8. Terminating incentives and recovering previous distributions if the terms of the memorandum of agreement are not met; and

9. Preparing and submitting an annual report to the Interim Joint Committee on Appropriations and Revenue beginning no later than November 1, 2025, and no later than each November 1 thereafter until all moneys have been fully distributed and all memorandums of agreement have been completed. The report shall contain cumulative and historical information for each application received, including:

a. Information to identify the eligible project, including the:

i. Name submitted on the application;

ii. County within which the eligible project is or will be located; and

iii. Agricultural economic development activity for which the eligible project will develop;

b. Dates, including the date the:

i. Application was received;

ii. Application was denied, if appropriate;

iii. Memorandum of agreement was executed;

iv. Memorandum of agreement is estimated to be completed; and

v. Memorandum of agreement was completed;

c. The amount of capital investment that has or will be made by the recipient for the eligible project;

d. The estimated economic impact to be achieved from the eligible project;

e. Whether the incentive is or will be a:

i. Direct grant of moneys and the total amount of the grant;

ii. Forgivable loan and the total amount of the forgivable loan;

iii. Low-interest revolving loan, the total amount of the loan, and the low-interest rate of the loan; or

iv. Combination of the incentives in subparts i. to iii. of this subdivision;

f. If the incentive is a low-interest loan, the amount of:

i. Principal collected from the inception of the loan to the report date; and

ii. Interest collected from the inception of the loan to the report date;

g. A list of all funding sources to be utilized by the eligible project; and

h. The amount of incentive disbursements that have been made to the eligible project under this section.

(4) (a) The agricultural economic development fund is hereby created as a revolving account within the State Treasury to be administered by the department.

(b) The fund shall consist of moneys received from repayment of low-interest loans awarded as an incentive under this section, state appropriations, gifts, grants, federal funds, and any returned moneys required under subsection (6)(j) of this section.

(c) Amounts deposited in the fund shall be used as provided in this section.

(d) Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.

(e) All interest earnings of the fund shall become a part of the fund and shall not lapse.

(f) Up to twenty percent (20%) of moneys appropriated to the fund during a fiscal year may be used for eligible projects to retain or create innovative or high-technology jobs in the agriculture industry that are directly associated with developing more diverse energy sources within the Commonwealth.

(5) (a) By working in conjunction and coordination with the Cabinet for Economic Development, the department shall create a program to encourage projects promoting economic development related to agriculture, including:

1. Agricultural economic development projects across the Commonwealth;

2. Agribusiness projects; and

3. Alternative fuels projects.

(b) The Cabinet for Economic Development shall coordinate with and seek guidance from the Commissioner of Agriculture in considering any projects for economic incentives related to agricultural economic development, agribusiness, or production facilities for alternative fuels, including sustainable aviation fuels.

(6) (a) An eligible project may submit an application to the board in accordance with subsection (8) of this section.

(b) Upon review of the application and any additional information submitted, the board may give preliminary approval to an eligible project and authorize the negotiation and execution of a memorandum of agreement.

(c) The memorandum of agreement shall:

1. Establish the:

a. Minimum amount of capital investment to be made;

b. Whether the incentive is a:

i. Direct grant of moneys and the total amount of the grant;

ii. Forgivable loan and the total amount of the forgivable loan;

iii. Low-interest revolving loan, the total amount of the loan, and the low-interest rate of the loan; or

iv. Combination of the incentives in subparts i. to iii. of this subdivision; and

c. Target dates for distribution of the incentives during the time between preliminary approval and final approval of the eligible project; and

2. Only allow the incentives to be applied to costs incurred after preliminary approval.

(d) Upon preliminary approval, the business may undertake and begin the project according to the memorandum of agreement.

(e) The eligible project shall submit any documentation required by the board upon request.

(f) Upon preliminary approval, the board shall:

1. Post the company's name, location of the agricultural economic development project, and incentives that have been preliminarily approved on the department's website; and

2. Monitor each eligible project to ensure that incentives are distributed incrementally as the capital investment targets are incrementally achieved according to the memorandum of agreement.

(g) Records relating to applications for incentives from the fund or under KRS Chapter 154, including exchanges of information and offers, that are denied, or are not otherwise awarded an incentive, shall remain confidential, shall not be subject to public inspection, and shall not be considered public records under KRS 61.870 to 61.884.

(h) 1. To obtain final approval, the eligible project shall submit documentation required by the board to confirm that the requirements established by the memorandum of agreement have been met. Documentation shall include information demonstrating that the eligible project has met the minimum capital investment.

2. Upon review and confirmation of the documentation, the board may authorize the final distribution of incentives and the memorandum of agreement shall be completed.

(i) The board shall monitor the activities of the eligible project and, based on the documentation provided, confirm that the eligible project is in compliance with the provisions of the memorandum of agreement and, therefore, eligible for the continued distribution of incentives.

(j) If, at any time during the term of the memorandum of agreement, an eligible project becomes ineligible for incentives, the board shall immediately terminate the distribution of incentives and determine whether previously distributed incentives may be recaptured based on a pro rata basis of the partially completed terms and the actual terms within the memorandum of agreement by the benchmarks established in the memorandum of agreement.

(7) (a) The board shall operate in the same manner as the operation of the Agricultural Development Board in accordance with KRS 248.701 to 248.727.

(b) Standards to be used in reviewing and approving an eligible project shall include but not be limited to the:

1. Creditworthiness of the eligible company;

2. Proposed capital investment to be made;

3. Projected tax receipts;

4. Support of the local community; and

5. Likelihood of the economic success of the agricultural economic development project.

(8) The application shall include:

(a) The name of the applicant who will have some relation to the eligible project;

(b) A description of the eligible project, including its location and the total capital investment in the eligible project;

(c) For eligible projects new to the Commonwealth:

1. Certification by the applicant that the eligible project could reasonably and efficiently locate outside of the Commonwealth and that, without the incentives offered by the board, the eligible project would likely locate outside the Commonwealth; and

2. The identification of at least one (1) viable out-of-state location for the eligible project;

(d) For eligible projects with an existing location in the Commonwealth considering an expansion, certification that the incentives are necessary for the expansion to occur;

(e) A letter of support from a local governmental entity in the city or county where the eligible project will be located; and

(f) Any other information the board may require.

➔Section 2. KRS 154.12-213 is amended to read as follows:

(1) The cabinet, as it deems necessary and advisable, may:

(a)~~[(1)]~~ Consult with agencies of the state, federal, and local government in order to coordinate development programs and plans and to articulate agriculture, industry, and commerce in the light of the needs of particular localities;

(b)~~[(2)]~~ Make studies of land utilization so as to determine areas suitable for industrial and commercial development;

(c)~~[(3)]~~ Make studies and projections and publish information relating to the economic development of the Commonwealth and make appropriate recommendations to the board and the General Assembly;

(d)~~[(4)]~~ Establish and maintain development offices in out-of-state centers of industrial and commercial management; ***and***

(e)~~[(5)]~~ Place advertising in appropriate media promoting Kentucky's resources and locational advantages for industrial and commercial enterprises.

(2) The cabinet shall coordinate with and seek guidance from the Commissioner of Agriculture in considering any projects for economic incentives related to agricultural economic development, agribusiness, or production facilities for alternative fuels including sustainable aviation fuels, including providing to the Commissioner of Agriculture:

(a) Names of applicants;

(b) Details of proposed projects, including the proposed activity and the location of the proposed activity;

(c) Estimates of capital investment and jobs to be created; and

(d) Any other information requested by the Commissioner of Agriculture.

➔Section 3. KRS 248.709 is amended to read as follows:

The board's duties shall include but not be limited to:

(1) Administering the agricultural development fund, except as provided in KRS 248.717(2);

(2) Receiving requests and applications for funds and authorizing the distribution of funds. The board may receive applications from institutions of public postsecondary education for financial and technical assistance in conducting alternative crop development research. The board shall assist the applicants in obtaining any necessary federal permits that may be required to conduct alternative crop research. A recipient institution shall report the status and progress of the alternative crop development research to the board, the Interim Joint Committee on Agriculture, and the Tobacco Settlement Agreement Fund Oversight Committee. The board shall promulgate administrative regulations relating to growing and researching alternative crops at the selected postsecondary institution, and shall adopt any applicable federal regulations;

(3) Developing guidelines and criteria for eligibility for and disbursement of funds, the types of direct and indirect economic assistance to be awarded, and procedures for applying for funds and reviewing applications for assistance;

(4) Ensuring that each county agricultural development council's plans and county recommendations and applications receive major consideration in decisions on use of a county's funds;

(5) (a) Completing a comprehensive plan and updating the plan no less than every ten (10) years.

(b) The comprehensive plan shall propose short-term and long-term goals, strategies, and investments in Kentucky agriculture that will assist farmers in remaining competitive in existing and new enterprises. The comprehensive plan shall identify a diversified mix of enterprises that are profitable to farmers and shall determine the investments necessary to support the viability of those enterprises. The plan shall be reviewed by the General Assembly and the subcommittee created in KRS 248.723. The subcommittee may issue comment on the plan. However, the board may act without General Assembly approval.

(c) Notwithstanding the provisions of 2000 Ky. Acts ch. 546, immediate funding needs may be addressed and funded before a comprehensive or strategic plan is completed. Proposals from an applicant may be approved by the board if they meet the criteria established in KRS 248.713;

(6) Preparing a biennial budget request in accordance with KRS Chapter 48;

(7) Working with other governmental agencies to maximize the financial and economic impact that the programs implemented by the board will have and to maximize receipt of federal and other funds to the agriculture community in the Commonwealth;

(8) Promulgating administrative regulations relating to carrying out the purposes of KRS 248.701 to 248.727;

(9) Hiring an executive director to carry out the will of the board and who shall report solely to the Commissioner;

(10) Ensuring the necessary mechanisms are in place for the committees created by KRS 248.715 to function effectively;

(11) Contracting with other persons or entities if necessary to effectuate the board's purposes and functions;

(12) Enacting bylaws concerning the conduct of the board's business and other administrative procedures as the board deems necessary;

(13) Developing criteria to evaluate the success of the board's programs and expenditures to applicants. The criteria shall be simple, easily measured, and easily understood. Criteria should include number of families farming, increases in farm income attributable to state programs, the number of diversified operations, and the number of different types of diversified efforts within a county, including the efforts that have failed;

(14) Providing reports of each meeting, along with expenditures approved or denied, within thirty (30) days of the meeting, to the Tobacco Settlement Agreement Fund Oversight Committee created by KRS 248.723. These reports shall contain detailed information relating to each expenditure by the board and detailed information on each application for funding a project or initiative by the board and decision by the board regarding each proposal, except information that may violate confidentiality. This information shall be provided by electronic format as prescribed by the Legislative Research Commission;

(15) Submitting an annual written report to the Governor, the Commissioner of Agriculture, the Tobacco Settlement Agreement Fund Oversight Committee, and the Legislative Research Commission regarding the administrative, financial, and programmatic activities of the board;~~[and]~~

(16) Making recommendations to the General Assembly through the Legislative Research Commission on possible adjustments to the funding formula for county allocations and the percent allocated to counties as provided in KRS 248.703***; and***

(17) Making, participating in the making, purchasing, or participating in the purchasing of insured mortgage or other types of loans to qualified applicants for the purpose of incentives awarded under Section 1 of this Act.

➔Section 4. KRS 246.030 is amended to read as follows:

The department shall consist of:

(1) The Office of the Commissioner;

(2) The Office of Agricultural Marketing, which shall include the following:

(a) The Promotion and Development Division;

(b) The ***Farm Safety and Rural Health***~~[Shows and Fairs]~~ Division;

(c) The Livestock Division;

(d) The Plant Division;

(e) The Education and Outreach Division; and

(f) The Direct Farm Marketing Division;

(3) The Office for Consumer and Environmental Protection, which shall include the following:

(a) The Division of Regulation and Inspection;

(b) The Division of Food Distribution; and

(c) The Division of Environmental Services;

(4) The Office of State Veterinarian, which shall include the following:

(a) The Division of Regulatory Field Services

(b) The Division of Animal Health Programs; and

(c) The Division of Emergency Preparedness and Response;

(5) The Office of Administrative Services, which shall include the following:

(a) The Division of Human Resources;

(b) The Division of Administrative Services; and

(c) The Division of Information Technology;

(6) The Office of Communications;

(7) The Office of Legal Services;

(8) The State Board of Agriculture; and

(9) The Kentucky Office of Agricultural Policy, which shall include the following:

(a) Agricultural Development Board;~~[and]~~

(b) Kentucky Agricultural Finance Corporation***; and***

(c) The Division of Agricultural Economic Development.

➔Section 5. KRS 247.220 is amended to read as follows:

(1) The Commissioner of Agriculture shall make grants of state funds to qualified local agricultural fairs on a matching basis, to be used by them to pay premium awards for exhibits and displays of domestic livestock, poultry, harness horse racing, other horse events, and agricultural products. The premiums actually awarded shall conform to those appearing on the premium list issued by the fair.

(2) The state may provide funds for use in the establishment of new facilities and improvement of existing facilities for use in conducting events at local agricultural fairs as provided by this section. No grant for buildings shall be made until the local fair board has complied with the local fair program and qualified for the state grant as provided in subsection (5) of this section. Grants for facilities shall be made under regulations promulgated by the Fair Council and the Commissioner of Agriculture. In no event shall the allocation for facilities result in a decrease in the number of approved agricultural classes or premiums.

(3) There shall be a Fair Council in the Department of Agriculture. The council shall act in an advisory capacity to the Commissioner in all matters pertaining to the administration of the department's fair program. It shall be called into session when there are matters for its consideration. It shall meet at least twice each calendar year at Frankfort or at any other place that may be determined.

(4) (a) The council shall be composed of:

1. The Commissioner, or the Commissioner's designee, as ***chair***~~[chairman]~~;

2. The Presidents or their designated representatives of the following state groups:

a. Kentucky Farm Bureau Federation;

b. Kentucky Association of Fairs and Horse Shows, Inc.;

c. Kentucky Horse Racing and Gaming Corporation;

d. American Saddlebred Horse Association; and

e. Kentucky Walking Horse Association;

3. The Agricultural Education Consultant of the Kentucky Department of Education;

4. The dean of the University of Kentucky College of Agriculture, Food and Environment, or the dean's designee;

5. The co-chairs of the Interim Joint Committee on Agriculture; and

6. Two (2) representatives appointed by the Commissioner who are experienced in showing livestock or animal agriculture.

(b) The Commissioner may, with the concurrence of a majority of the members of the council, appoint additional members to the council.

(5) To qualify for a grant of state funds, a fair shall meet standards set by the Commissioner and his ***or her*** advisory council whose approval may be given only if the fair:

(a) Provides in its bylaws for holding an annual fair running for at least three (3) days;

(b) Presents, through the medium of youth organizations such as 4-H clubs, Future Farmers of America, and other similar organizations, an educational program concerning the production and marketing of the livestock, poultry, and horse industries;

(c) Complies with all administrative regulations which the Department of Agriculture is hereby authorized to promulgate; and

(d) Appoints one (1) or more members to its fair board from local livestock associations, horsemen's associations, and county farm bureaus, and selects one (1) or more county extension agents and vocational agriculture teachers for counties served by the fair as members of the board. Wherever local livestock associations, horsemen's associations, and farm bureaus are in existence, appointees are to be nominated to the fair board by these organizations. Where fairs serve an area, appointments may be made from all counties within the particular area. It shall be the responsibility of the appointees to aid in establishing premium lists and planning agricultural exhibits.

(6) Any fair receiving a grant of state funds shall file with the director of the ***Livestock*** ~~[Shows and Fairs]~~ Division in the Department of Agriculture, by December 1 of the year in which the grant is received, satisfactory proof that all state premium awards have been paid and a certified notarized financial report submitted by the treasurer of the local fair association.

➔Section 6. Whereas farm families throughout the Commonwealth depend on the expansion and success of a flourishing agricultural industry, and it is imperative that productive farm land in the Commonwealth be preserved and increased and new infrastructure improvements be made, 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.

Veto Overridden March 27, 2025.