

154.27-090 Advance disbursement of incentives -- Computation of maximum disbursement amount -- Schedule for disbursement -- Repayment.

- (1) An approved company may be eligible for the advance disbursement of a portion of the post-construction period incentives for which it has been approved. The amount of the advance disbursement shall be based on the employment of Kentucky residents during the construction of the facility, shall be negotiated with the authority as part of the tax incentive agreement, and shall not exceed the limitations established by this section.
- (2) The authority shall compute the maximum amount of the advance disbursement employment incentive as follows:
 - (a) The base amount shall equal the total capital investment specified in the tax incentive agreement multiplied by the labor intensity factor as determined in paragraph (c) of this subsection;
 - (b) The base amount shall then be multiplied by the Kentucky resident factor as determined in paragraph (d) of this subsection. The resulting amount shall be the maximum advance disbursement employment incentive that the authority may approve;
 - (c) The labor intensity factor shall be:
 1. Twenty-five percent (25%), if the estimated labor component for the eligible project is greater than thirty percent (30%) of the total capital investment;
 2. Twenty percent (20%), if the estimated labor component for the eligible project is greater than twenty-five percent (25%) but less than or equal to thirty percent (30%) of the total capital investment; or
 3. Fifteen percent (15%), if the estimated labor component for the eligible project is equal to or less than twenty-five percent (25%) of the total capital investment; and
 - (d) The Kentucky resident factor shall be four percent (4%) multiplied by a fraction, the numerator of which shall be the estimated total gross wages that will be paid to Kentucky residents who are working on the construction, retrofit, or upgrade of the eligible project, and the denominator of which shall be the estimated total gross wages that will be paid to all workers working on the construction, retrofit, or upgrade of the eligible project.
- (3) The tax incentive agreement shall include a schedule for the disbursement of the advance disbursement employment incentive during the construction period. In negotiating the disbursement schedule, the authority shall consider the possible increased risk to the Commonwealth associated with the disbursement of funds prior to construction completion.
- (4)
 - (a) The approved company shall repay the advance disbursement through a reduction in the post-construction period incentive amounts it would otherwise receive. The amount by which the post-construction period incentive amounts are reduced shall be applied as a credit against the amount owed by the approved company.
 - (b) The amount of the annual reduction, the incentives the reduction shall

apply to, interest due, the time period over which the advance disbursement amount shall be recouped, and alternate payment methods if incentives are not sufficient to repay the advance disbursement shall be negotiated between the authority and the approved company as part of the tax incentive agreement.

- (c) The repayment schedule included in the tax incentive agreement shall require uniform incremental payments, to the extent possible, and shall continue until the entire advance disbursement amount has been repaid by the approved company.
 - (d) The tax incentive agreement shall include a provision addressing an alternate method for payment if incentives are not sufficient to repay the advance disbursement.
 - (e) The total post-construction incentive payments for which an approved company is eligible shall be tracked by the department. That portion of the incentive amounts identified in the tax incentive agreement as being devoted to the repayment of the advance disbursement amount shall be credited against the balance due from the approved company and shall not be paid to or retained by the approved company.
 - (f) The department shall forward the amounts credited to the repayment of the advance disbursement amount to the Cabinet for Economic Development, Department of Financial Incentives for deposit in the Energy Projects Economic Development Bond Pool.
 - (g) During the period for which any portion of the post-construction incentive payments are being credited toward the advance disbursement amount, the approved company shall, at the direction of the authority or the department, file all required requests for incentives, submit all required remittances, make all required tax payments, and provide to the department and the authority any information that would normally be required for the approved company to receive the incentives.
- (5) The authority may, for purposes of administering the provisions of this section, solicit information or consultation from one (1) or more of the following sources:
- (a) The Office of Energy Policy;
 - (b) The Center for Applied Energy Research;
 - (c) The Department of Workforce Development; or
 - (d) Any public postsecondary education institution within the Commonwealth.

Effective: July 1, 2022

History: Amended 2022 Ky. Acts ch. 236, sec. 56, effective July 1, 2022. -- Amended 2018 Ky. Acts ch. 29, sec. 58, effective July 14, 2018. -- Amended 2010 Ky. Acts ch. 24, sec. 203, effective July 15, 2010. -- Created 2007 (2d Extra. Sess.) Ky. Acts ch. 1, sec. 9, effective August 30, 2007.

Legislative Research Commission Note (7/14/2018). 2018 Ky. Acts ch. 171, sec. 140 directed that this statute be repealed. However, 2018 Ky. Acts ch. 207, sec. 149 subsequently directed that the repeal of this statute in 2018 Ky. Acts ch. 171 itself be repealed. Therefore, no repeal was given effect.

Legislative Research Commission Note (8/30/2007). A manifest clerical or typographical error in subsection (4)(b) of this section has been corrected by the Reviser of Statutes during codification pursuant to the authority of KRS 7.136.

