

**246.605 Agricultural Economic Development Board -- Definitions -- Establishment -- Membership -- Duties -- Incentive program -- Agricultural economic development fund -- Procedures -- Applications.**

- (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)(b) 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 memoranda 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.

**Effective:** March 27, 2025

**History:** Created 2025 Ky. Acts ch. 118, sec. 1, effective March 27, 2025.

**Legislative Research Commission Note (3/27/2025).** 2025 Ky. Acts ch. 118, sec. 1, which created this statute, contained a reference to "subsection (6)(c)" in subsection (1)(c) of this statute, though it is clear from the text of the Act that the reference was meant to be to subsection (6)(b), as that paragraph deals with the review of information necessary for preliminary approval of an eligible project. The reviser of statutes has corrected this manifest clerical or typographical error during codification under the authority of KRS 7.136.