

AN ACT relating to TVA in-lieu-of-tax payments, 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:*

(a) *"Book value" means original cost unadjusted for depreciation as reflected in the TVA's books of account. "Book value" shall be determined as of the June 30 used by the TVA in computing the annual payment to the Commonwealth which is subject to redistribution by the Commonwealth;*

(b) *"Department" means the Department of Revenue;*

(c) *"Regional development agency" or "agency" means a local industrial development authority established under KRS 154.50-301 to 154.50-346, which is designated by a fiscal court to receive a payment pursuant to subsection (5) of this section;*

(d) *"Regional development agency assistance fund" or "fund" means the regional development agency assistance fund established in subsection (5) of 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, including work in progress but excluding temporary construction facilities, that have a fixed situs thereon if and to the extent that the 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; provided, however, that manufacturing machinery as interpreted by the department for franchise tax determination shall be excluded*

along with ash disposal systems, and coal-handling facilities, including railroads, cranes and hoists, and crushing and conveying equipment.

(2) (a) Except for payments made directly by the TVA[Tennessee Valley Authority] to counties, the total fiscal year payment received by the Commonwealth[~~of Kentucky~~] from the TVA[Tennessee Valley Authority], 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 (3) and (4)[~~subsection (2)~~] of this section.

(b) For fiscal years beginning on or after July 1, 2016, a portion of the total fiscal year payment received by the Commonwealth that is prorated to the general fund shall be transferred from the general fund to the regional development agency assistance fund, in the following amounts:

1. For fiscal year 2016-2017, ten percent (10%), not to exceed one million two hundred thousand dollars (\$1,200,000);
2. For fiscal year 2017-2018, twenty percent (20%), not to exceed two million four hundred thousand dollars (\$2,400,000);
3. For fiscal year 2018-2019, thirty percent (30%), not to exceed three million six hundred thousand dollars (\$3,600,000);
4. For fiscal year 2019-2020, forty percent (40%), not to exceed four million eight hundred thousand dollars (\$4,800,000); and
5. For fiscal year 2020-2021, and each fiscal year thereafter, fifty percent (50%), not to exceed six million dollars (\$6,000,000).

(3)[~~(2)~~] The payment to each county, city, and school district shall be determined by the proportion that the book value of TVA[Tennessee Valley Authority] property in the given[~~such~~] taxing district, multiplied by the current tax rate, bears to the total

book value~~[of the book values]~~ of TVA~~[Tennessee Valley Authority]~~ property in all applicable~~[such]~~ taxing districts in the Commonwealth, multiplied by their respective tax rates, provided, however, each applicable~~[public]~~ school district~~[for the purposes of this calculation]~~ shall have its~~[their]~~ tax rate increased by thirty cents (\$0.30) **for purposes of this calculation.**

~~(4)~~~~(3)~~ As soon as practicable after the amount of payment to be made to the Commonwealth~~[of Kentucky]~~ is finally determined by the TVA~~[Tennessee Valley Authority]~~, the~~[Kentucky]~~ department~~[of Revenue]~~ shall determine the book value of TVA~~[Tennessee Valley Authority]~~ property in each county, city, and school district and shall prorate the total payments received from the TVA~~[Tennessee Valley Authority]~~, except payments received directly~~[from the Tennessee Valley Authority]~~, among the distributees as provided in subsection ~~(3)~~~~(2)~~ of this section. The department~~[of Revenue]~~ shall certify the payment due each taxing district to the Finance and Administration Cabinet which shall make the payment to such district.

- (5) (a) 1. The regional development agency assistance fund is hereby established in the State Treasury. The fund shall be administered by the secretary of the Finance and Administration Cabinet for the purpose of providing funding to agencies that are designated, by the fiscal court of each county receiving a prorated payment pursuant to subsection (4) of this section in a given fiscal year, to receive funding in that year.**
- 2. The fund shall only receive the moneys transferred from the general fund pursuant to subsection (2)(b) of this section.**
- 3. 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.

- (b) In each fiscal year, after the department has calculated the prorated payment amount that is due each county pursuant to subsection (4) of this section, the department shall then make a written request to the fiscal court of each county receiving a payment, for the name and address of the agency the fiscal court designates to receive a payment from the fund for that year pursuant to this subsection.
- (c) Within sixty (60) days of the date of the department's request, each fiscal court shall designate in writing one (1) agency that shall receive an equal share of the total amount of funds transferred to the fund in that fiscal year pursuant to subsection (2)(b) of this section. Once the amount is determined by the department, the payments shall be paid by the Finance and Administration Cabinet directly to each designated agency.
- (d) If a fiscal court does not respond to the department within sixty (60) days of the date of the department'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.
- (e) All agencies receiving funds pursuant to this subsection shall:
1. Operate in or serve the interests of the county whose fiscal court designated it to receive funding;
  2. Use the funds for economic development and job creation activities in that county which the agency is empowered to undertake;
  3. Use the funds to acquire federal, state, and private matching funds to the extent possible; and
  4. Provide a written report annually, no later than October 1, to the fiscal court that designated it for payment and to the Legislative Research

**Commission. The report shall describe how the funds were used and the results of that use in terms of economic development and job creation.**

~~(6)~~~~(4)~~ — As used in subsections (2) and (3) of this section, "Tennessee Valley Authority Property" means land owned by the United States and in the custody of the Tennessee Valley Authority, together with such improvements (including work in progress but excluding temporary construction facilities) as have a fixed situs thereon if and to the extent that such improvements either:

~~(a)~~ — Were in existence when title to the land on which they are situated was acquired by the United States; or

~~(b)~~ — Are allocated by the Tennessee Valley Authority or determined by it to be allocable to power; provided, however, that manufacturing machinery as interpreted by the Department of Revenue for franchise tax determination shall be excluded along with ash disposal systems and, coal handling facilities, including railroads, cranes and hoists, crushing and conveying equipment. As used in said subsections "book value" means original cost unadjusted for depreciation as reflected in Tennessee Valley Authority's books of account. "Book value" shall be determined, for purposes of applying said subsections, as of the June 30 used by the Tennessee Valley Authority in computing the annual payment to the Commonwealth which is subject to redistribution by the Commonwealth.

~~(5)~~ This section shall be applicable to all payments received after **the effective date of this Act**~~[September 30, 1985]~~, from the **TVA**~~[Tennessee Valley Authority]~~ under Section 13 of the Tennessee Valley Authority Act, as amended.

➔Section 2. Whereas economic development and job creation initiatives at the local level are of vital importance to the improvement of the quality of life for all Kentuckians, and increased funding is greatly needed to support those initiatives as soon

as possible, 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.