

1 AN ACT relating to economic development oversight and declaring an emergency.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO
4 READ AS FOLLOWS:

5 *The Economic Development Incentive Review Board of the Kentucky General*
6 *Assembly is hereby established. The purpose of the board shall be to review and*
7 *analyze the financial and economic performance of economic development incentive*
8 *programs and to make policy recommendations to the General Assembly about*
9 *economic development incentives.*

10 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO
11 READ AS FOLLOWS:

12 *As used in Sections 1 to 7 of this Act, unless the context requires otherwise:*

13 *(1) "Board" means the Economic Development Incentive Review Board;*

14 *(2) "Department" means the Department of Revenue; and*

15 *(3) "Economic development incentive" means a state program, statutory provision,*
16 *or tax expenditure, including tax credits, tax exemptions, tax deductions, grants,*
17 *or loans, that is intended to encourage businesses to locate, expand, invest, or*
18 *remain in Kentucky or to hire or retain employees in Kentucky.*

19 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO
20 READ AS FOLLOWS:

21 *(1) The board shall be composed of the following twelve (12) members:*

22 *(a) Four (4) members of the General Assembly appointed by the Speaker of the*
23 *House of Representatives, each of whom shall serve while a member of the*
24 *House for the term for which he or she has been elected, one (1) of whom*
25 *shall be the chair or a vice chair of the House Standing Committee on*
26 *Appropriations and Revenue, and one (1) of whom the Speaker shall*
27 *designate as co-chair of the board;*

1 **(b) Four (4) members of the General Assembly appointed by the President of**
2 **the Senate, each of whom shall serve while a member of the Senate for the**
3 **term for which he or she has been elected, one (1) of whom shall be the**
4 **chair or a vice chair of the Senate Standing Committee on Appropriations**
5 **and Revenue, and one (1) of whom the President shall designate as co-chair**
6 **of the board;**

7 **(c) Two (2) members of the General Assembly appointed by the Minority Floor**
8 **Leader of the Senate, who shall serve while a member of the Senate for the**
9 **term for which he or she has been elected; and**

10 **(d) Two (2) members of the General Assembly appointed by the Minority Floor**
11 **Leader of the House of Representatives, who shall serve while a member of**
12 **the House for the term for which he or she has been elected.**

13 **(2) (a) Initial appointments to the board shall be made within thirty (30) days of**
14 **the effective date of this Act.**

15 **(b) Any vacancy which may occur in the membership of the board shall be**
16 **filled by the appointing authority who made the original appointment within**
17 **thirty (30) days of the creation of the vacancy.**

18 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO
19 READ AS FOLLOWS:

20 **(1) The co-chairs of the board shall have joint responsibilities for board meeting**
21 **agendas and presiding at board meetings.**

22 **(2) On an alternating basis, each co-chair shall have the first option to set the**
23 **monthly meeting date. A monthly meeting may be cancelled by agreement of both**
24 **co-chairs. The board shall meet at least twice during each calendar year.**

25 **(3) Members of the board shall be entitled to reimbursement for expenses incurred in**
26 **the performance of their duties.**

27 **(4) A majority of the entire membership of the board shall constitute a quorum, and**

1 *all actions of the board shall be by vote of a majority of its entire membership.*

2 *(5) The Legislative Research Commission shall have exclusive jurisdiction over the*
3 *employment of personnel necessary to carry out the provisions of Sections 1 to 7*
4 *of this Act. Staff and operating costs of the board shall be provided from the*
5 *budget of the Legislative Research Commission.*

6 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO
7 READ AS FOLLOWS:

8 *The board shall have the authority to:*

9 *(1) Require any state agency to provide any and all information necessary to carry*
10 *out the duties of the board, any other provision of the Kentucky Revised Statutes*
11 *notwithstanding. The cost of providing the information to the board shall be*
12 *included in the administrative budget of the state agency;*

13 *(2) Conduct public hearings in furtherance of its general duties, at which it may*
14 *require the appearance of officials of any state agency and solicit the testimony of*
15 *interested groups and the general public;*

16 *(3) Establish a uniform format for reports and data submitted to the board by state*
17 *agencies and the frequency and due dates for the reports and data;*

18 *(4) Establish a schedule for the review of economic development incentives so that*
19 *each economic development incentive is reviewed at least once every six (6) years;*

20 *(5) Request the Auditor of Public Accounts to perform a financial or special audit of*
21 *any economic development incentive program administered by the*
22 *Commonwealth; and*

23 *(6) Utilize the services of consultants, managers, legal counsel, and auditors to*
24 *render professional, managerial, and technical assistance as needed.*

25 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO
26 READ AS FOLLOWS:

27 *The board shall:*

- 1 (1) Once every six (6) years, conduct a systematic and comprehensive review,
2 analysis, and evaluation of each economic development incentive offered by the
3 Commonwealth, based on the following factors:
- 4 (a) Descriptive information on the incentive's history, its goals, cost,
5 beneficiaries, and usage;
- 6 (b) Analysis of the incentive's fiscal and economic impact, including:
- 7 1. The extent to which the incentive changes business behavior;
8 2. The results of the incentive for the economy of Kentucky as a whole,
9 including positive direct and indirect impacts and any negative effects
10 on other Kentucky businesses; and
- 11 3. A comparison to the results of other incentives or other economic
12 development strategies with similar goals;
- 13 (c) An assessment of the design and administration of the incentive, including:
- 14 1. Whether it is well-designed to meet its goals;
15 2. The ease of use for businesses applying for or benefitting from the
16 program;
- 17 3. Whether mechanisms are in place to monitor company performance
18 and enforce performance agreements; and
- 19 4. Whether adequate protections are in place to ensure the fiscal impact
20 of the incentive does not increase substantially beyond the state's
21 means or expectations; and
- 22 (d) An explanation of the methodology used in the analysis and
23 recommendations for any changes to statutes or administrative regulations
24 that would allow the economic development incentive to be more easily
25 evaluated in the future, including changes to data collection, reporting,
26 sharing of information, and clarification of goals;
- 27 (2) Research issues related to the Commonwealth's economic development incentive

1 programs;

2 (3) Publish an annual report covering the board's evaluation and recommendation
3 with respect to the Commonwealth's economic development incentive programs.
4 The report shall be submitted to the Legislative Research Commission and the
5 Interim Joint Committee on Appropriations and Revenue no later than November
6 1 of each year and shall include at a minimum any legislative recommendations
7 made by the board, a summary of the financial activities of the Commonwealth's
8 economic development incentive programs, and an analysis of the effectiveness of
9 the current economic development incentive programs; and

10 (4) Testify at any meeting of the Interim Joint Committee on Appropriations and
11 Revenue upon request of one (1) or both of the co-chairs of the Interim Joint
12 Committee on Appropriations and Revenue.

13 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO
14 READ AS FOLLOWS:

15 (1) On or before June 1 of each calendar year, the board shall issue a request to any
16 state agency that administers a economic development incentive program for any
17 information the board deems necessary to evaluate the economic development
18 incentive. The board may agree to provisions of confidentiality requested by the
19 agency, but shall retain authority to write the report required under subsection
20 (3) of Section 6 of this Act without restriction.

21 (2) Each state agency receiving a request under subsection (1) of this section shall
22 provide the information to the board within forty-five (45) days of receiving the
23 request, any other provision of the Kentucky Revised Statutes notwithstanding.

24 (3) If a state agency fails to respond to a request for information by the board, the
25 board shall include this failure in its report required under subsection (3) of
26 Section 6 of this Act.

27 ➔Section 8. Whereas the value of economic development incentives cannot be

1 presently ascertained because of a lack of adequate review and this information is
2 urgently needed to make informed decisions about public policy, an emergency is
3 declared to exist, and this Act takes effect upon its passage and approval by the Governor
4 or upon its otherwise becoming a law.