

1 AN ACT relating to TVA in-lieu-of-tax payments, making an appropriation therefor,
2 and declaring an emergency.

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

4 ➔Section 1. KRS 96.895 is amended to read as follows:

5 *(1) As used in this section, unless the context requires otherwise:*

6 *(a) "Book value" means original cost unadjusted for depreciation as reflected*
7 *in the TVA's books of account;*

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

9 *(c) "Fund" means the regional development agency assistance fund*
10 *established in subsection (4) of this section;*

11 *(d) "Fund-eligible county" means any county of the Commonwealth of*
12 *Kentucky that either:*

13 *1. Is one (1) of Adair, Allen, Ballard, Barren, Bell, Butler, Caldwell,*
14 *Calloway, Carlisle, Christian, Clinton, Cumberland, Edmonson,*
15 *Fulton, Graves, Grayson, Harlan, Hart, Henderson, Hickman,*
16 *Livingston, Logan, Lyon, Marshall, McCracken, McCreary, Metcalfe,*
17 *Monroe, Muhlenberg, Ohio, Russell, Simpson, Todd, Trigg, Union,*
18 *Warren, Wayne, Webster, or Whitley Counties; or*

19 *2. For any period of time after July 1, 2012, and before the effective date*
20 *of this Act:*

21 *a. Was served by a utility that purchases power from the TVA or*
22 *distributes TVA power in Kentucky; or*

23 *b. Was the situs for any TVA property;*

24 *(e) "Regional development agency" or "agency" means a local industrial*
25 *development authority established under KRS 154.50-301 to 154.50-346*
26 *that is designated by a fiscal court to receive a payment pursuant to this*
27 *section;*

- 1 (f) "TVA" means the Tennessee Valley Authority; and
- 2 (g) "TVA property" means land owned by the United States and in the custody
- 3 of the TVA, together with improvements that have a fixed situs on the land,
- 4 including work in progress but excluding temporary construction facilities,
- 5 if these improvements either:
- 6 1. Were in existence when title to the land on which they are situated was
- 7 acquired by the United States; or
- 8 2. Are allocated by the TVA or determined by it to be allocable to power.
- 9 However, manufacturing machinery as interpreted by the department
- 10 for franchise tax determination; ash disposal systems; and coal
- 11 handling facilities, including railroads, cranes and hoists, and
- 12 crushing and conveying equipment, shall be excluded.
- 13 (2) Book value shall be determined, for purposes of applying this section, as of the
- 14 June 30 used by the TVA in computing the annual payment to the
- 15 Commonwealth that is subject to redistribution by the Commonwealth.
- 16 ~~(3)~~~~(1)~~ Except for payments made directly by the TVA~~[Tennessee Valley Authority]~~ to
- 17 counties, the total fiscal year payment received by the Commonwealth of Kentucky
- 18 from the TVA~~[Tennessee Valley Authority]~~, as authorized by Section 13 of the
- 19 Tennessee Valley Authority Act, as amended, shall be prorated thirty percent (30%)
- 20 to the general fund of the Commonwealth and seventy percent (70%) among
- 21 counties, cities, and school districts, as provided in subsections (6) and
- 22 (7)~~[subsection (2)]~~ of this section.
- 23 (4) (a) The regional development agency assistance fund is hereby established in
- 24 the State Treasury.
- 25 (b) The fund shall be administered by the secretary of the Finance and
- 26 Administration Cabinet for the purpose of providing funding to agencies
- 27 that are designated to receive funding in a given fiscal year by the fiscal

1 court of each fund-eligible county.

2 (c) The fund shall only receive the moneys transferred from the general fund
 3 pursuant to subsection (5) of this section.

4 (d) Notwithstanding KRS 45.229, any moneys remaining in the fund at the
 5 close of the fiscal year shall not lapse but shall be carried forward into the
 6 succeeding fiscal year. Any interest earnings of the fund shall become a
 7 part of the fund and shall not lapse.

8 (5) For fiscal years beginning on or after July 1, 2018, a portion of the total fiscal
 9 year payment received by the Commonwealth that is allocated to the general fund
 10 shall be transferred from the general fund to the regional development agency
 11 assistance fund established in subsection (4) of this section. This portion shall be
 12 equal to fifty percent (50%) of the total fiscal year payment received by the
 13 Commonwealth that is allocated to the general fund, but shall not exceed six
 14 million dollars (\$6,000,000) each fiscal year.

15 ~~(6)(2)~~ The payment to each county, city, and school district shall be determined by
 16 the proportion that the book value of TVA~~Tennessee Valley Authority~~ property in
 17 such taxing district, multiplied by the current tax rate, bears to the total of the book
 18 values of TVA~~Tennessee Valley Authority~~ property in all such taxing districts in
 19 the Commonwealth, multiplied by their respective tax rates, ~~provided,~~ However,
 20 for purposes of this calculation, each public school district ~~for the purposes of this~~
 21 ~~calculation~~ shall have its~~their~~ tax rate increased by thirty cents (\$0.30).

22 ~~(7)(3)~~ As soon as practicable after the amount of payment to be made to the
 23 Commonwealth ~~of Kentucky~~ is finally determined by the TVA~~Tennessee Valley~~
 24 ~~Authority~~, the ~~Kentucky~~ department ~~of Revenue~~ shall determine the book value
 25 of TVA~~Tennessee Valley Authority~~ property in each county, city, and school
 26 district and shall prorate the payments allocated to counties, cities, and school
 27 districts under subsection (3) of this section~~total payments received from the~~

1 Tennessee Valley Authority, except payments received directly from the Tennessee
2 Valley Authority,] among the distributees as provided in subsection ~~(6)~~~~(2)~~ of this
3 section. The department~~[of Revenue]~~ shall certify the payment due each taxing
4 district to the Finance and Administration Cabinet which shall make the payment to
5 such district.

6 **(8) In each fiscal year, after the department has calculated the prorated payment**
7 **amount that is due to each county pursuant to subsection (7) of this section, the**
8 **department shall then make a written request to the fiscal court of each fund-**
9 **eligible county for the name and address of the agency the fiscal court designates**
10 **to receive a payment from the fund pursuant to subsection (5) of this section.**

11 **(9) Within sixty (60) days of the date of the department's request, each fiscal court**
12 **shall designate in writing one (1) agency that shall receive a share of the total**
13 **amount of funds transferred to the fund in that fiscal year pursuant to subsection**
14 **(5) of this section. Each agency's share shall be calculated as the total amount of**
15 **funds transferred to the fund in that fiscal year divided by the total number of**
16 **agencies designated to receive funds by fiscal courts of fund-eligible counties.**
17 **Once the amount is determined by the department, the payment shall be paid by**
18 **the Finance and Administration Cabinet directly to the designated agency.**

19 **(10) If a fiscal court does not respond to the department within sixty (60) days of the**
20 **date of the department's request, the payment otherwise due to an agency**
21 **designated by that fiscal court shall be reallocated equally among the agencies**
22 **that have been designated to receive payments by the other fiscal courts.**

23 **(11) All agencies receiving funds under this section shall:**

24 **(a) Operate in, or serve the interest of, the county whose fiscal court designated**
25 **it to receive funding;**

26 **(b) Use the funds for economic development and job creation activities that the**
27 **agency is empowered to undertake in that county;**

1 (c) Use the funds to acquire federal, state, or private matching funds to the
 2 extent possible; and

3 (d) Provide a written report annually, no later than October 1, to the fiscal
 4 court that designated it for payment and to the Interim Joint Committee on
 5 Appropriations and Revenue. The report shall describe how the funds were
 6 expended and the results of the use of funds in terms of economic
 7 development and job creation.

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

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

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

26 ~~(12)~~⁽⁵⁾ This section shall be applicable to all payments received after the effective date
 27 of this Act~~[September 30, 1985,]~~ from the TVA~~[Tennessee Valley Authority]~~ under

1 Section 13 of the Tennessee Valley Authority Act as amended.

2 ➔Section 2. Whereas economic development and job creation initiatives at the
3 local level are of vital importance to the improvement of the quality of life for all
4 Kentuckians, and increased funding is greatly needed to support those initiatives as soon
5 as possible, an emergency is declared to exist, and this Act takes effect upon its passage
6 and approval by the Governor or upon its otherwise becoming a law.