

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

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

3 ➔Section 1. KRS 154.12-100 is amended to read as follows:

4 (1) "Economic development ~~fund~~[bonds]" means the ~~fund~~[bond program] authorized
5 by the General Assembly for the purpose of promoting economic development
6 within the state.

7 (2) ***The economic development fund shall be funded through the issuance of bonds***
8 ***by the State Properties and Buildings Commission or other appropriation by the***
9 ***General Assembly.***

10 (3) The economic development ~~fund~~[bond program] shall be administered by the
11 secretary of the Cabinet for Economic Development. The ~~authority~~[board] shall
12 promulgate administrative regulations in accordance with KRS Chapter 13A for
13 project selection criteria ***and administration of the economic development fund.***
14 The project selection criteria shall include, but not be limited to, the following:

15 (a) Potential job creation or job retention;

16 (b) Degree of public or private and local involvement;

17 (c) Degree and conditions of project payback; and

18 (d) ***Amount of investment***[Provision of child care assistance for employees'
19 dependents aged twelve (12) years and younger. For the purpose of this
20 section, child care assistance means onsite child care, child care information
21 and referral, the purchasing of child care through vouchers or contracts, and
22 any other form of child care assistance deemed applicable by the secretary].

23 (4)[(3)] Prior to submission of an economic development ~~fund~~[bond] project to the
24 ~~authority~~[Capital Projects and Bond Oversight Committee], the secretary of the
25 Cabinet for Economic Development shall receive a written commitment from the
26 public or private organization which has requested ~~funds~~[state bonds] outlining
27 projected job creation and retention, an investment breakdown, and overall project

1 description. This shall be submitted by the secretary to the authority~~[Capital~~
2 ~~Projects and Bond Oversight Committee]~~. Subsequently, the secretary of the
3 Cabinet for Economic Development shall execute a written agreement with the
4 public or private organizations involved expressing in detail the respective
5 obligations on the parties~~[, which shall thereafter be automatically forwarded to the~~
6 ~~committee for its records]~~.

7 ~~(5)~~~~[(4)]~~ Projects of state agencies as defined in KRS 42.005 shall not be eligible for
8 funding from the economic development fund~~[bond]~~ program, unless expressly
9 provided in a branch budget bill. Airport construction and renovation projects shall
10 be eligible for funding under this section. The secretary of the Cabinet for Economic
11 Development shall consult with the secretary of the Finance and Administration
12 Cabinet on the terms and conditions relating to the use of funds pursuant to this
13 section~~[state economic development bonds]~~ before any commitment is made on any
14 project to any public or private organization.~~[Before any economic development~~
15 ~~bonds are issued, the proposed bond issue shall be approved by the board, and the~~
16 ~~State Property and Buildings Commission, under the provisions of KRS 56.450.]~~

17 ~~(6)~~~~[(5)]~~ Following the approval by the authority~~[board]~~, the project shall be presented
18 by the secretary of the Cabinet for Economic Development or his or her designee
19 with supporting documentation for review and approval at the next regularly
20 scheduled meeting of the Capital Projects and Bond Oversight Committee pursuant
21 to KRS 45.810 and at the next regularly scheduled meeting of the State Property
22 and Buildings Commission pursuant to KRS 56.450.

23 ~~(7)~~~~[(6)]~~ Notwithstanding the provisions of KRS 56.872(3), the amount of economic
24 development funds~~[bonds]~~ issued during any biennium shall not exceed the
25 balance of the fund, and any funds authorized in the biennial budget shall carry
26 forward and shall not lapse~~[amount stated in the biennial budget]~~.

27 ~~(8)~~~~[(7)]~~ By November 1 of each year, the Cabinet for Economic Development shall

1 prepare and post an annual report to the cabinet's Web site as required in KRS
 2 154.12-2035, showing the economic development ~~funds~~~~bonds~~ issued during the
 3 previous fiscal year, funds disbursed, the amounts paid back, and the balance still
 4 owing with respect to grants or loans made by the Cabinet for Economic
 5 Development with proceeds of economic development ~~funds~~~~bonds~~ during the
 6 previous five (5) fiscal years.

7 ➔Section 2. KRS 154.25-010 is amended to read as follows:

8 As used in this subchapter:

- 9 (1) "Activation date" means a date selected by an approved company and set forth in
 10 the jobs retention agreement at any time within a three (3) year period after the date
 11 of final approval of the agreement by the authority upon which the required
 12 investment shall be made and the jobs retention project completed;
- 13 (2) "Agreement" means a jobs retention agreement entered into pursuant to KRS
 14 154.25-030 on behalf of the authority and an approved company with respect to a
 15 jobs retention project;
- 16 (3) "Agribusiness" has the same meaning as in KRS 154.32-010;
- 17 (4) "Approved company" means any eligible company approved by the authority
 18 pursuant to KRS 154.25-030 for a jobs retention project;
- 19 ~~(5)~~~~(4)~~ "Approved costs" means that portion of the eligible costs approved by the
 20 authority that an approved company may recover through the inducements
 21 authorized by KRS 154.25-030, being a percentage of eligible costs as approved by
 22 the authority;
- 23 ~~(6)~~~~(5)~~ "Assessment" means the wage assessment fee authorized by KRS 154.25-040;
- 24 ~~(7)~~~~(6)~~ "Authority" means the Kentucky Economic Development Finance Authority
 25 created by KRS 154.20-010;
- 26 ~~(8)~~~~(7)~~ "Commonwealth" means the Commonwealth of Kentucky;
- 27 ~~(9)~~~~(8)~~ "Eligible company" means any corporation, limited liability company,

1 partnership, limited partnership, sole proprietorship, business trust, or any other
 2 entity~~[designated by the United States Department of Commerce, United States~~
 3 ~~Census Bureau North American Industry Classification System Code of 325211,~~
 4 ~~325510, 326199, 327211, 327212, 327215, 331111, 331221, 331521, 332312,~~
 5 ~~332813, 33299, 333415, 335110, 335221, 335222, 335224, 335228, 335911,~~
 6 ~~335912, 336211, 336111, 336112, 336120, 423510, 493110, 541614, 551114, or~~
 7 ~~561439,]~~ that **has been operating within the Commonwealth on a continuous**
 8 **basis for at least sixty (60) months preceding the request for approval by the**
 9 **authority of the project which meets the standards set forth in KRS 154.25-020,**
 10 **has been previously approved for economic development incentives from the**
 11 **Commonwealth related to one (1) or more of its facilities, and** employs a
 12 minimum of one thousand (1,000) full-time persons engaged in **one (1) or more of**
 13 **the following activities:**

14 **(a) Manufacturing;**

15 **(b) Agribusiness;**

16 **(c) Nonretail service or technology; or**

17 **(d) Headquarters operations, regardless of the underlying business activity of**
 18 **the company.**

19 **"Eligible company" does not include companies where the primary activity to be**
 20 **conducted within the Commonwealth is forestry, fishing, mining, coal or mineral**
 21 **processing, the provision of utilities, construction, wholesale trade, retail trade,**
 22 **real estate, rental and leasing, educational services, accommodation and food**
 23 **services, or public administration services**~~[automobile, automobile parts or~~
 24 ~~supplies, household appliance, or household appliance parts or supplies~~
 25 ~~manufacturing, has been operating within the Commonwealth on a continuous basis~~
 26 ~~for at least five (5) years preceding the request for approval by the authority of the~~
 27 ~~project which meets the standards set forth in KRS 154.25-020, and that has been~~

1 previously approved for economic development incentives from the Commonwealth
2 related to one (1) or more of its facilities];

3 ~~(10)~~~~(9)~~ "Eligible costs" means:

- 4 (a) Obligations incurred for labor and to vendors, contractors, subcontractors,
5 builders, suppliers, deliverymen, and materialmen in connection with the
6 acquisition, construction, equipping, rehabilitation, and installation of a jobs
7 retention project;
- 8 (b) The cost of contract bonds and of insurance of all kinds that may be required
9 or necessary during the course of a jobs retention project which is not paid by
10 the vendor, supplier, deliveryman, contractor, or otherwise provided;
- 11 (c) All costs of architectural and engineering services, including estimates, plans
12 and specifications, preliminary investigations, and supervision of construction,
13 rehabilitation, and installation, as well as for the performance of all the duties
14 required by or consequent upon the acquisition, construction, equipping,
15 rehabilitation, and installation of a jobs retention project;
- 16 (d) All costs required to be paid under the terms of any contract for the
17 acquisition, construction, equipping, rehabilitation, and installation of a jobs
18 retention project;
- 19 (e) All costs required for the installation of utilities, including but not limited to
20 water, sewer, sewer treatment, gas, electricity, communications, and railroads,
21 and including off-site construction of the facilities paid for by the approved
22 company; and
- 23 (f) All other costs comparable with those described above;

24 ~~(11)~~~~(10)~~ "Final approval" means the action taken by the authority authorizing the
25 eligible company to receive inducements under this subchapter;

26 **(12) "Headquarters" has the same meaning as in KRS 154.32-010;**

27 ~~(13)~~~~(11)~~ "Inducements" means the Kentucky tax credit and the wage assessment fee as

1 prescribed in KRS 154.25-030 and 154.25-040;

2 (14)~~((12))~~ "Jobs retention project" or "project" means the acquisition, construction, and
3 installation of new equipment and, with respect thereto, the construction,
4 rehabilitation, and installation of improvements to facilities necessary to house the
5 acquisition, construction, and installation of new equipment, including surveys;
6 installation of utilities, including water, sewer, sewage treatment, gas, electricity,
7 communications, and similar facilities; off-site construction of utility extensions to
8 the boundaries of the real estate on which the facilities are located; and shall contain
9 eligible costs of not less than one hundred million dollars (\$100,000,000), all of
10 which are utilized to improve the economic and operational situation of an
11 approved company to allow the approved company to reinvest in its operations and
12 retain a significant number of existing jobs within the Commonwealth;

13 (15)~~((13))~~ "Kentucky gross profits" means Kentucky gross profits as defined in KRS
14 141.0401;

15 (16)~~((14))~~ "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS
16 141.0401;

17 (17)~~((15))~~ "Manufacturing" ***has the same meaning as in KRS 154.32-010***~~[means any~~
18 ~~activity involving the manufacturing, processing, assembling, or production of any~~
19 ~~property, including the processing that results in a change in the condition of the~~
20 ~~property and any related activity or function, together with the storage,~~
21 ~~warehousing, distribution, and related office facilities];~~

22 (18) ***"Non-retail service or technology" has the same meaning as in KRS 154.32-010;***

23 (19)~~((16))~~ "Preliminary approval" means the action taken by the authority conditioning
24 final approval by the authority upon satisfaction by the eligible company of the
25 requirements under this subchapter;

26 (20)~~((17))~~ "Supplemental project" means an additional jobs retention project proposed by
27 the approved company or its affiliate during the term of a previously approved jobs

1 retention project, which may be included in the jobs retention agreement by way of
2 amendment and which may result in increased inducements and an extension of the
3 original project term as set forth in KRS 154.25-050; and

4 ~~(21)~~~~(18)~~ "Transferred credits" means unused approved costs as determined by the
5 Department of Revenue from a previously approved, independent, active project
6 under a different incentive program governed by the Cabinet for Economic
7 Development that may be transferred to a jobs retention project and used by the
8 approved company pursuant to a jobs retention agreement.

9 ➔Section 3. KRS 154.32-020 is amended to read as follows:

10 (1) The purposes of this subchapter are:

11 (a) To provide incentives for eligible companies and to encourage the location or
12 expansion of manufacturing facilities, agribusiness operations, nonretail
13 service or technology facilities, headquarters operations, alternative fuel
14 production facilities, gasification production facilities, energy-efficient
15 alternative fuel production facilities, renewable energy production facilities,
16 and carbon dioxide transmission pipelines in the Commonwealth to advance
17 the public purposes of:

- 18 1. Creation of new jobs that, but for the incentives offered by the authority,
19 would not exist within the Commonwealth;
- 20 2. Creation of new sources of tax revenues for the support of public
21 services provided by the Commonwealth; and
- 22 3. Improvement in the quality of life for Kentucky citizens through the
23 creation of sustainable jobs with higher salaries; and

24 (b) To provide enhanced incentives for companies that locate in enhanced
25 incentive counties in recognition of the depressed economic conditions in
26 those counties and the increased need for the growth and development caused
27 by the depressed economic conditions.

1 (2) ~~{(a)-}~~To qualify for the incentives provided by subsection (3) of this section, an
2 approved company shall:

3 ~~(a){1-}~~ Incur eligible costs of at least one hundred thousand dollars (\$100,000);

4 ~~(b){2-}~~ Create at least ten (10) new full-time jobs and maintain an annual
5 average number of at least ten (10) new full-time jobs; and

6 ~~(c) 1.{3-a-}~~ Pay at least ninety percent (90%) of all new full-time employees
7 whose jobs were created as a result of the economic development project
8 a minimum wage of at least one hundred twenty-five percent (125%) of
9 the federal minimum wage in enhanced incentive counties, and one
10 hundred fifty percent (150%) of the federal minimum wage in other
11 counties throughout the term of the economic development project; and

12 ~~2.{b-}~~ Provide employee benefits for all new full-time jobs equal to at
13 least fifteen percent (15%) of the minimum wage requirement
14 established by ~~{subdivision a. of this }~~subparagraph *1. of this*
15 *paragraph*. If the eligible company does not provide employee benefits
16 equal to at least fifteen percent (15%) of the minimum wage requirement
17 established by ~~{subdivision a. of this }~~subparagraph *1. of this*
18 *paragraph*, the eligible company may still qualify for incentives if it
19 provides the full-time employees hired as a result of the economic
20 development project total hourly compensation equal to or greater than
21 one hundred fifteen percent (115%) of the minimum wage requirement
22 established in ~~{subdivision a. of this }~~subparagraph *1. of this paragraph*
23 through increased hourly wages combined with employee benefits.

24 ~~{(b)-}~~To qualify for the advance disbursement provided by KRS 154.32-080, an
25 approved company shall commit to meeting the job and wage requirements
26 established by paragraph (a) of this subsection, and shall provide
27 documentation indicating that the proposed economic development project

1 ~~will require investment of at least five hundred million dollars~~
2 ~~(\$500,000,000).]~~

3 (3) The incentives available under this subchapter are as follows:

4 (a) Tax credits of up to one hundred percent (100%) of the Kentucky income tax
5 imposed under KRS 141.020 or 141.040 and the limited liability entity tax
6 imposed under KRS 141.0401 on the income, Kentucky gross profits, or
7 Kentucky gross receipts of the approved company generated by or arising
8 from the economic development project, as set forth in KRS 141.415 and
9 154.32-070;

10 (b) Authorization for the approved company to impose a wage assessment against
11 the gross wages of each new employee subject to the Kentucky income tax as
12 provided in KRS 154.32-090; and

13 (c) *Notwithstanding any provision of law to the contrary, for any economic*
14 *development project with an eligible investment of more than two hundred*
15 *million dollars (\$200,000,000), the authority may authorize approval to the*
16 *economic development project based upon terms and incentives applicable*
17 *to economic development project locating in an enhanced incentive*
18 *county*~~For economic development projects with an investment of more than~~
19 ~~five hundred million dollars (\$500,000,000), an advance disbursement as~~
20 ~~provided in KRS 154.32-080].~~

21 (4) The General Assembly hereby finds and declares that the authority granted in this
22 subchapter and the purposes accomplished hereby are proper governmental and
23 public purposes for which public moneys may be expended, and that the
24 inducement of the location of economic development projects within the
25 Commonwealth is of paramount importance to the economic well-being of the
26 Commonwealth.

27 ➔Section 4. KRS 154.32-030 is amended to read as follows:

- 1 (1) The application, approval, and review process under this subchapter shall be as
2 follows:
- 3 (a) An eligible company with a proposed economic development project may
4 submit an application to the authority. The application shall include the
5 information required by subsection (3) of this section;
- 6 (b) ~~1.—~~Upon review of the application and any additional information
7 submitted, the authority may, by resolution, give preliminary approval to an
8 eligible company and authorize the negotiation and execution of a
9 memorandum of agreement. The memorandum of agreement shall establish a
10 preliminary job target, minimum wage target, including employee benefits,
11 and maximum total approved cost for the economic development project, and
12 shall only allow the recovery of eligible costs incurred after preliminary
13 approval. Upon preliminary approval, the preliminarily approved company
14 may undertake the project in accordance with the memorandum of agreement,
15 and may begin to hire employees that may be counted toward the minimum
16 full-time job requirements established by the memorandum of agreement~~[-~~
- 17 ~~2.— If the preliminary approval includes an advance disbursement, a separate~~
18 ~~loan agreement shall also be negotiated establishing the terms for the~~
19 ~~advance disbursement in accordance with KRS 154.32-080];~~
- 20 (c) After preliminary approval but before final approval, the authority shall post
21 the preliminarily approved company's name, the location of the economic
22 development project, and the incentives that have been preliminarily approved
23 on the Cabinet for Economic Development's Web site;
- 24 (d) The preliminarily approved company shall submit any documentation required
25 by the authority upon request of the authority;
- 26 (e) To obtain final approval, the preliminarily approved company shall submit:
- 27 1. Documentation required by the authority to confirm that the

1 requirements established by the memorandum of agreement have been
2 met; and

3 2. Documentation of official action taken by a local governmental entity
4 detailing the manner and level of local contribution, if applicable.

5 Upon review and confirmation of the documentation, the authority may, by
6 resolution, give final approval to the preliminarily approved company, and
7 authorize the execution of a tax incentive agreement between the authority and
8 the approved company pursuant to KRS 154.32-040. The tax incentive
9 agreement shall establish an activation date, which shall be within two (2)
10 years of final approval;

11 (f) 1. On or before the activation date, the approved company shall notify the
12 authority of its intention to activate the tax incentive agreement. The
13 approved company shall submit:

14 a. Documentation that it has met the minimum full-time job,
15 minimum investment, and minimum wage and employee benefits
16 requirements established by KRS 154.32-020 as of the date of
17 activation; and

18 b. The confirmed approved costs incurred as of the date of activation,
19 which shall be the total eligible costs that may be recovered by the
20 approved company.

21 2. If the approved company fails to meet any of the minimum investment,
22 full-time job, or wage requirements, including employee benefits,
23 established by KRS 154.32-020 on the activation date, the tax incentive
24 agreement shall be canceled and the approved company shall not be
25 eligible for incentives.

26 3. If an approved company meets the minimum investment, full-time job,
27 and wage requirements, including employee benefits, established by

- 1 KRS 154.32-020, but fails to meet higher job targets and minimum wage
2 targets, including employee benefits, established in the tax incentive
3 agreement, then the provisions of subsection (4) of this section shall
4 apply in determining the incentives for which the approved company
5 qualifies.
- 6 4. Upon activation of a tax incentive agreement, the authority shall notify
7 the department, and shall provide the department with the information
8 necessary to monitor and track the incentives taken by the approved
9 company; and
- 10 (g) 1. The authority shall monitor the tax incentive agreement at least annually,
11 and the approved company shall submit all documentation necessary for
12 the authority to monitor the agreement.
- 13 2. The authority shall, based on the documentation provided, confirm that
14 the approved company is in continued compliance with the provisions of
15 the tax incentive agreement and, therefore, eligible for incentives.
- 16 3. Upon annual review, if the approved company meets the minimum job
17 and wage requirements, including employee benefits, established by
18 KRS 154.32-020, but fails to meet the job target and minimum wage
19 target, including employee benefits, established in the tax incentive
20 agreement, then the provisions of subsection (4) of this section shall
21 apply in determining the incentives for which the approved company
22 qualifies in any year.
- 23 4. Upon final approval, the authority shall notify the department that an
24 approved company is eligible for incentives and shall provide the
25 department with the information necessary to monitor the use of
26 incentives by the approved company. If, at any time during the term of
27 the tax incentive agreement, an approved company becomes ineligible

1 for incentives, the authority shall notify the department, and the
2 department shall discontinue the availability of incentives for the
3 approved company.

4 (2) (a) The authority may establish procedures and standards for the review and
5 approval of eligible companies and their economic development projects
6 through the promulgation of administrative regulations in accordance with
7 KRS Chapter 13A.

8 (b) Standards to be used by the authority in reviewing and approving an eligible
9 company and its economic development project shall include but not be
10 limited to:

- 11 1. The creditworthiness of the eligible company;
- 12 2. The proposed capital investment to be made;
- 13 3. The number of new full-time jobs to be provided for the residents of the
14 Commonwealth and the wages to be paid;
- 15 4. Support of the local community; and
- 16 5. The likelihood of the economic success of the economic development
17 project.

18 (3) The application shall include but not be limited to:

19 (a) The name of the applicant and identification of any affiliates of the applicant
20 who will have some relation to the economic development project;

21 (b) A description of the economic development project, including its location, the
22 total investment in the economic development project, and total proposed
23 eligible costs;

24 (c) The projected number of new full-time jobs to be created as a result of the
25 economic development project and identification of any affiliates who may
26 employ persons hired to fill those jobs;

27 (d) The number of existing full-time jobs at the site of the economic development

- 1 project on the date of the application and a description and breakdown of the
2 relevant affiliated employers;
- 3 (e) Proposed wage and employee benefit amounts for the new full-time jobs to be
4 created as a result of the proposed economic development project;
- 5 (f) For proposed economic development projects new to the Commonwealth,
6 certification by the eligible company that the economic development project
7 could reasonably and efficiently locate outside of the Commonwealth and,
8 without the incentives offered by the authority, the eligible company would
9 likely locate outside the Commonwealth;
- 10 (g) For eligible companies with an existing location in the Commonwealth
11 considering an expansion, certification that the tax incentives are necessary for
12 the expansion to occur;
- 13 (h) A letter of support from a local governmental entity in the city or county
14 where the economic development project will be located; and
- 15 (i) Any other information the authority may require.
- 16 (4) (a) An approved company that meets the minimum job and wage requirements,
17 including employee benefits established by KRS 154.32-020, but fails to meet
18 the job target and minimum wage target, including employee benefits
19 established by the tax incentive agreement, shall be eligible to receive the
20 incentives authorized by the tax incentive agreement as provided in this
21 subsection.
- 22 (b) If, upon activation or annual review, an approved company achieves at least
23 ninety percent (90%) of both the job target and minimum wage target,
24 including employee benefits established by the tax incentive agreement, and
25 no other default has occurred, then the approved company shall be eligible to
26 receive full incentives as provided in the tax incentive agreement.
- 27 (c) If, upon activation or annual review, an approved company achieves less than

1 ninety percent (90%) of either the job target or minimum wage target,
2 including employee benefits established in the tax incentive agreement, and no
3 other default has occurred, then the incentives available to the approved
4 company for the following year shall be reduced by a percentage equal to the
5 percentage representing the difference between the job target or minimum
6 wage target, including employee benefits established in the tax incentive
7 agreement, and the actual average number of full-time jobs or average wage,
8 including employee benefits, paid. If both the number of actual average full-
9 time jobs and average wages paid, including employee benefits, are below
10 ninety percent (90%) of the targets on the same measurement date, then the
11 greater percentage reduction of the two (2) shall be applied rather than
12 reducing the incentives available by the sum of the two (2).

13 (d) If, upon annual review, either the actual number of new full-time jobs or the
14 average wages paid for those jobs, including employee benefits, is less than
15 the minimum requirements established by KRS 154.32-020, then the
16 economic development project may be suspended automatically or, with
17 approval of the authority, terminated.

18 ➔Section 5. KRS 154.32-090 is amended to read as follows:

19 (1) An approved company or, with the authority's consent, an affiliate of an approved
20 company may impose wage assessments against employees as provided in this
21 section if a wage assessment is included in the incentives awarded to the approved
22 company in the tax incentive agreement. The level of wage assessment shall be
23 negotiated as part of the tax incentive agreement.

24 (2) If an economic development project is located in an enhanced incentive county, the
25 approved company or, with the authority's consent, an affiliate of the approved
26 company may require that each employee subject to the tax imposed by KRS
27 141.020, whose job is determined by the authority to be created as a result of the

1 economic development project, as a condition of employment, agree to an
2 assessment of up to five percent (5%) of taxable wages.

3 (3) (a) If the economic development project is not located in an enhanced incentive
4 county, and is located in a local jurisdiction where:

5 1. No local occupational license fee is imposed; or

6 2. a. A local occupational license fee greater than or equal to one
7 percent (1%) is imposed; and

8 b. The local jurisdiction agrees to forgo one percent (1%) via credits
9 against the local occupational license fee for the affected
10 employees; then

11 (b) An approved company or, with the authority's consent, an affiliate of an
12 approved company may require that each employee subject to tax imposed by
13 KRS 141.020, whose job is determined by the authority to be created as a
14 result of the economic development project, as a condition of employment,
15 agree to pay an assessment of up to four percent (4%) of taxable wages.

16 (4) (a) If:

17 1. The economic development project is not located in an enhanced
18 incentive county, and is located in a jurisdiction where the local
19 occupational license fee is less than one percent (1%); and

20 2. The local jurisdiction agrees to forgo the total amount of the local
21 occupational license fee; then

22 (b) An approved company or, with the authority's consent, an affiliate of an
23 approved company may require that each employee subject to tax imposed by
24 KRS 141.020, whose job is determined by the authority to be created as a
25 result of the economic development project, as a condition of employment,
26 agree to pay an assessment of up to three percent (3%) of taxable wages, plus
27 a percentage equal to the amount of the local occupational license fee the local

1 jurisdiction agrees to forgo.

2 (5) (a) If:

3 1. The project is not located in an enhanced incentive county and is located
4 in a county where the jurisdiction imposes a local occupational license
5 fee of less than one percent (1%); and

6 2. The local jurisdiction agrees to forgo only a portion of the total amount
7 of the local occupational license fee; then

8 (b) An approved company or, with the authority's consent, an affiliate of an
9 approved company may require that each employee subject to tax imposed by
10 KRS 141.020, whose job is determined by the authority to be created as a
11 result of the economic development project, as a condition of employment,
12 agree to pay an assessment to be determined as follows:

13 1. Divide the local occupational license fee that the local jurisdiction has
14 agreed to forgo by the total local occupational license fee imposed;

15 2. Multiply the result determined under subparagraph 1. of this paragraph
16 by three percent (3%); and

17 3. Add the result from subparagraph 2. of this paragraph to the local
18 occupational license fee that the local jurisdiction has agreed to forgo.

19 (6) (a) If:

20 1. The project is not located in an enhanced incentive county, and is
21 located in a county where the jurisdiction imposes a local occupational
22 license fee equal to or greater than one percent (1%); and

23 2. The local jurisdiction agrees to forgo the local occupational license fee
24 in an amount of less than one percent (1%); then

25 (b) An approved company or, with the authority's consent, an affiliate of an
26 approved company may require that each employee subject to tax imposed by
27 KRS 141.020, whose job is determined by the authority to be created as a

1 result of the economic development project, as a condition of employment,
2 agree to pay an assessment to be determined as follows:

- 3 1. Divide the local occupational license fee that the local jurisdiction has
4 agreed to forgo by one percent (1%);
- 5 2. Multiply the result determined under subparagraph 1. of this paragraph
6 by three percent (3%); and
- 7 3. Add the result from subparagraph 2. of this paragraph to the local
8 occupational license fee that the local jurisdiction has agreed to forgo.

9 (7) If the project is not located in an enhanced incentive county, and:

- 10 (a) Is located in a local jurisdiction that does not impose a local occupational
11 license fee, the local jurisdiction shall be required to provide some alternative
12 inducement satisfactory to the authority at the local level in order for a
13 preliminarily approved company to receive final approval. However, the
14 authority may waive this requirement if there are reasonable circumstances
15 that prevent the local jurisdiction from providing a reasonable inducement; or
- 16 (b) Is located in a local jurisdiction that does impose a local occupational license
17 fee, the jurisdiction may request that the authority waive the local
18 occupational license fee requirements established by subsection (3), (4), (5),
19 or (6) of this section if the local jurisdiction offers alternative inducements of
20 similar value satisfactory to the authority. The authority shall review all
21 requests for a waiver, and may waive the local occupational license fee
22 requirements and instead require the local jurisdiction to provide alternative
23 inducements of similar value if the authority determines that the
24 circumstances warrant an alternative contribution by the local jurisdiction.

25 (8) Each employee paying the assessment shall simultaneously be entitled to a credit
26 against the Kentucky individual income tax required to be withheld under KRS
27 141.310 equal to the state portion of the assessment and shall be entitled to a credit

1 against the local occupational license tax equal to the local portion of the
2 assessment.

3 (9) If more than one (1) local jurisdiction imposes an occupational license fee, the local
4 jurisdiction portion of the assessment shall be prorated proportionately among the
5 taxes imposed by the local jurisdictions unless one (1) local jurisdiction agrees to
6 forgo the receipt of these taxes in an amount equal to the local jurisdiction portion
7 of the wage assessment, in which case no proration shall be made.

8 (10) If a full-time employee subject to state tax imposed by KRS 141.020 is already
9 employed by the approved company at a site other than the site of the economic
10 development project, that full-time employee's job shall be deemed to have been
11 created when the full-time employee is transferred to the site of the economic
12 development project if the full-time employee's existing job is filled with a new
13 full-time employee.

14 (11) If an approved company elects to impose the assessment as a condition of
15 employment, it shall be authorized to deduct the assessment from each payment of
16 wages to the employee~~[unless the approved company receives an advance~~
17 ~~disbursement as set forth in KRS 154.32-080, in which case assessment claims shall~~
18 ~~be filed with the department, but no assessment shall be withheld by the company~~
19 ~~until the advance disbursement is repaid in full].~~

20 (12) Notwithstanding any other provision of the Kentucky Revised Statutes, if an
21 approved company elects not to deduct the assessment from each payment of wages
22 to the employee, but rather requests a reimbursement of state tax imposed by KRS
23 141.020 or local occupational tax in the aggregate after they have been paid to the
24 state or local jurisdiction, no interest shall be paid by the state or by the local
25 jurisdiction on that reimbursement.

26 (13) No credit, or portion thereof, shall be allowed against any occupational license fee
27 imposed by or dedicated solely to the board of education in a local jurisdiction.

1 (14) An approved company imposing an assessment shall make its payroll, books, and
2 records available to the authority or the department upon request, and shall file with
3 the authority or department documentation pertaining to the assessment as the
4 authority or department may require.

5 (15) Any assessment of the wages of employees of an approved company in connection
6 with their employment at an economic development project shall permanently cease
7 at the expiration of the tax incentive agreement.

8 ➔Section 6. KRS 154.60-020 is amended to read as follows:

9 (1) The authority shall develop a small business development credit program in
10 consultation with the Office of Entrepreneurship to assist new or existing small
11 businesses operating in the Commonwealth. The nonrefundable credit shall be
12 allowed against the taxes imposed by KRS 141.020 or 141.040, and 141.0401. The
13 ordering of credits shall be as provided in KRS 141.0205.

14 (2) The authority shall determine the terms, conditions, and requirements for
15 application for the credit, in consultation with the Office of Entrepreneurship,
16 subject to the provisions of subsection (3) of this section. The application shall
17 contain identification information about the number of eligible positions created
18 and filled, a calculation of the base employment of the small business, verification
19 of investment of five thousand dollars (\$5,000) or more in qualifying equipment or
20 technology, and other information the authority may specify to determine eligibility
21 for the credit.

22 (3) (a) The maximum amount of credits that may be committed in each fiscal year by
23 the authority **and shared between the Small Business Tax Credit program**
24 **and the Farmer Small Business Tax Credit** shall be capped at three million
25 dollars (\$3,000,000).

26 (b) In order to be eligible to receive final approval for a credit, a small business
27 shall, within the twenty-four (24) month period immediately preceding the

1 application submission date:

2 1. Create and fill one (1) or more eligible positions over the base
3 employment; and

4 2. Invest five thousand dollars (\$5,000) or more in qualifying equipment or
5 technology.

6 (c) Each eligible position that is created and filled shall be maintained for twelve
7 (12) months. If a full-time employee filling a newly created eligible position
8 ceases to be employed by the small business for any reason, that employee
9 shall be replaced within forty-five (45) days in order for the eligible position
10 to maintain its eligible status, in addition to meeting all other applicable
11 requirements.

12 (d) The small business shall submit all information necessary for the authority to
13 determine credit eligibility for each year, and the amount of credit for which
14 the small business is eligible.

15 (e) The maximum amount of credit for each small business for each year shall not
16 exceed twenty-five thousand dollars (\$25,000).

17 (f) The credit shall be claimed on the tax return for the year during which the
18 credit was approved. Unused credits may be carried forward for up to five (5)
19 years.

20 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 154 AND
21 SUBCHAPTER 60 IS CREATED TO READ AS FOLLOWS:

22 **(1) In order to be eligible to receive approval for a tax credit, a selling farmer shall**
23 **have, at a minimum:**

24 **(a) 1. Demonstrated the active use, management, and operation of real and**
25 **personal property for the production of a farm product;**

26 **2. Executed and effectuated a purchase contract to sell agricultural land**
27 **with a beginning farmer for an amount evidenced by an appraisal;**

1

and

2

(b) Sold, conveyed, and transferred ownership of related agricultural land and assets to a beginning farmer.

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(2) The selling farmer shall submit an application after consummation of the sale, transfer of title, and conveyance of a farm and farming assets together with all information necessary for the authority to determine eligibility for the tax credit.

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(3) An application for the Farmer Small Business Tax Credit shall contain, at a minimum, information about the:

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(a) Selling farmer and purchasing beginning farmer eligibility;

10

(b) Purchase contract and closing statement;

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(c) Documentation, such as a deed, title conveyance for the transfer of assets, including verification of Kentucky residency; and

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13

(d) Any other information the authority may require to determine eligibility for the credit.

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(4) (a) The maximum amount of the Farmer Small Business Tax Credit for an approved selling farmer in each calendar year shall not exceed twenty-five thousand dollars (\$25,000) and shall be prorated based on factors determined by the authority.

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(b) The maximum amount of credit an individual may claim over a lifetime shall not exceed one hundred thousand dollars (\$100,000).

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(c) The credit shall be claimed on the tax return for the year during which the credit was approved. Unused credits may be carried forward for up to five (5) years.

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(5) Beginning January 1, 2020, the authority may approve Farmer Small Business Tax Credits for selling farmers.

25

26

➔Section 8. Whereas, it is essential to immediately secure economic development

27

projects and fully compete with other states to bring jobs and tax dollars to the

1 Commonwealth, therefore, an emergency is declared to exist and this Act takes effect
2 upon its passage and approval by the Governor or upon its otherwise becoming a law.

3 ➔Section 9. The following KRS section is repealed:

4 154.32-080 Advance disbursement of portion of incentives -- Eligibility -- Computation
5 of maximum amount -- Loan agreement -- Repayment.