

1 AN ACT relating to economic development.

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 guidelines[~~administrative regulations in accordance with KRS Chapter~~  
13 ~~13A~~] for project selection criteria ***and administration of the economic***  
14 ***development fund.*** The project selection criteria shall include, but not be limited to,  
15 the following:

16 (a) Potential job creation or job retention;

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

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

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

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

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

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

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

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

1 ~~(8)~~~~(7)~~ By November 1 of each year, the Cabinet for Economic Development shall  
2 prepare and post an annual report to the cabinet's Web site as required in KRS  
3 154.12-2035, showing the economic development ~~funds~~~~bonds~~ issued during the  
4 previous fiscal year, funds disbursed, the amounts paid back, and the balance still  
5 owing with respect to grants or loans made by the Cabinet for Economic  
6 Development with proceeds of economic development ~~funds~~~~bonds~~ during the  
7 previous five (5) fiscal years.

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

9 As used in this subchapter:

10 (1) "Activation date" means a date selected by an approved company and set forth in  
11 the jobs retention agreement at any time within a three (3) year period after the date  
12 of final approval of the agreement by the authority upon which the required  
13 investment shall be made and the jobs retention project completed;

14 (2) "Agreement" means a jobs retention agreement entered into pursuant to KRS  
15 154.25-030 on behalf of the authority and an approved company with respect to a  
16 jobs retention project;

17 (3) "Agribusiness" has the same meaning as in KRS 154.32-010;

18 ~~(4)~~ "Approved company" means any eligible company approved by the authority  
19 pursuant to KRS 154.25-030 for a jobs retention project;

20 ~~(5)~~~~(4)~~ "Approved costs" means that portion of the eligible costs approved by the  
21 authority that an approved company may recover through the inducements  
22 authorized by KRS 154.25-030, being a percentage of eligible costs as approved by  
23 the authority;

24 ~~(6)~~~~(5)~~ "Assessment" means the wage assessment fee authorized by KRS 154.25-040;

25 ~~(7)~~~~(6)~~ "Authority" means the Kentucky Economic Development Finance Authority  
26 created by KRS 154.20-010;

27 ~~(8)~~~~(7)~~ "Commonwealth" means the Commonwealth of Kentucky;

1 ~~(9)~~~~(8)~~ "Eligible company" means any corporation, limited liability company,  
2 partnership, limited partnership, sole proprietorship, business trust, or any other  
3 entity~~[ designated by the United States Department of Commerce, United States~~  
4 ~~Census Bureau North American Industry Classification System Code of 325211,~~  
5 ~~325510, 326199, 327211, 327212, 327215, 331111, 331221, 331521, 332312,~~  
6 ~~332813, 33299, 333415, 335110, 335221, 335222, 335224, 335228, 335911,~~  
7 ~~335912, 336211, 336111, 336112, 336120, 423510, 493110, 541614, 551114, or~~  
8 ~~561439,]~~ that has been operating within the Commonwealth on a continuous  
9 basis for at least sixty (60) months preceding the request for approval by the  
10 authority of the project which meets the standards set forth in KRS 154.25-020,  
11 has been previously approved for economic development incentives from the  
12 Commonwealth related to one (1) or more of its facilities, and employs a  
13 minimum of one thousand (1,000) full-time persons engaged in one (1) or more of  
14 the following activities:  
15 (a) Manufacturing;  
16 (b) Agribusiness;  
17 (c) Nonretail service or technology; or  
18 (d) Headquarters operations, regardless of the underlying business activity of  
19 the company.  
20 "Eligible company" does not include companies where the primary activity to be  
21 conducted within the Commonwealth is forestry, fishing, mining, coal or mineral  
22 processing, the provision of utilities, construction, wholesale trade, retail trade,  
23 real estate, rental and leasing, educational services, accommodation and food  
24 services, or public administration services~~[automobile, automobile parts or~~  
25 ~~supplies, household appliance, or household appliance parts or supplies~~  
26 ~~manufacturing, has been operating within the Commonwealth on a continuous basis~~  
27 ~~for at least five (5) years preceding the request for approval by the authority of the~~

1 ~~project which meets the standards set forth in KRS 154.25-020, and that has been~~  
2 ~~previously approved for economic development incentives from the Commonwealth~~  
3 ~~related to one (1) or more of its facilities];~~

4 ~~(10)~~~~(9)~~ "Eligible costs" means:

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

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

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

- 1 ~~(13)~~~~(11)~~ "Inducements" means the Kentucky tax credit and the wage assessment fee as  
2 prescribed in KRS 154.25-030 and 154.25-040;
- 3 ~~(14)~~~~(12)~~ "Jobs retention project" or "project" means the acquisition, construction, and  
4 installation of new equipment and, with respect thereto, the construction,  
5 rehabilitation, and installation of improvements to facilities necessary to house the  
6 acquisition, construction, and installation of new equipment, including surveys;  
7 installation of utilities, including water, sewer, sewage treatment, gas, electricity,  
8 communications, and similar facilities; off-site construction of utility extensions to  
9 the boundaries of the real estate on which the facilities are located; and shall contain  
10 eligible costs of not less than one hundred million dollars (\$100,000,000), all of  
11 which are utilized to improve the economic and operational situation of an  
12 approved company to allow the approved company to reinvest in its operations and  
13 retain a significant number of existing jobs within the Commonwealth;
- 14 ~~(15)~~~~(13)~~ "Kentucky gross profits" means Kentucky gross profits as defined in KRS  
15 141.0401;
- 16 ~~(16)~~~~(14)~~ "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS  
17 141.0401;
- 18 ~~(17)~~~~(15)~~ "Manufacturing" **has the same meaning as in KRS 154.32-010**~~means any~~  
19 ~~activity involving the manufacturing, processing, assembling, or production of any~~  
20 ~~property, including the processing that results in a change in the condition of the~~  
21 ~~property and any related activity or function, together with the storage,~~  
22 ~~warehousing, distribution, and related office facilities];~~
- 23 **(18) "Non-retail service or technology" has the same meaning as in KRS 154.32-010;**
- 24 ~~(19)~~~~(16)~~ "Preliminary approval" means the action taken by the authority conditioning  
25 final approval by the authority upon satisfaction by the eligible company of the  
26 requirements under this subchapter;
- 27 ~~(20)~~~~(17)~~ "Supplemental project" means an additional jobs retention project proposed by

1 the approved company or its affiliate during the term of a previously approved jobs  
2 retention project, which may be included in the jobs retention agreement by way of  
3 amendment and which may result in increased inducements and an extension of the  
4 original project term as set forth in KRS 154.25-050; and

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

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

11 (1) The purposes of this subchapter are:

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

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

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

1 by the depressed economic conditions.

2 (2) ~~[(a)]~~To qualify for the incentives provided by subsection (3) of this section, an  
3 approved company shall:

4 ~~(a)[1.]~~ Incur eligible costs of at least one hundred thousand dollars (\$100,000);

5 ~~(b)[2.]~~ Create at least ten (10) new full-time jobs and maintain an annual  
6 average number of at least ten (10) new full-time jobs; and

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

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

25 ~~[(b) To qualify for the advance disbursement provided by KRS 154.32-080, an~~  
26 ~~approved company shall commit to meeting the job and wage requirements~~  
27 ~~established by paragraph (a) of this subsection, and shall provide~~



1           ~~documentation indicating that the proposed economic development project~~  
2           ~~will require investment of at least five hundred million dollars~~  
3           ~~(\$500,000,000).]~~

- 4       (3) The incentives available under this subchapter are as follows:
- 5           (a) Tax credits of up to one hundred percent (100%) of the Kentucky income tax  
6           imposed under KRS 141.020 or 141.040 and the limited liability entity tax  
7           imposed under KRS 141.0401 on the income, Kentucky gross profits, or  
8           Kentucky gross receipts of the approved company generated by or arising  
9           from the economic development project, as set forth in KRS 141.415 and  
10          154.32-070;
- 11          (b) Authorization for the approved company to impose a wage assessment against  
12          the gross wages of each new employee subject to the Kentucky income tax as  
13          provided in KRS 154.32-090; and
- 14          (c) *Notwithstanding any provision of law to the contrary, for any economic*  
15          *development project with an eligible investment of more than two hundred*  
16          *million dollars (\$200,000,000), the authority may authorize inducements as*  
17          *if the project is locating in an enhanced incentive county pursuant to KRS*  
18          *154.32-090*~~[For economic development projects with an investment of more~~  
19          ~~than 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. The following KRS section is repealed:

9 154.32-080 Advance disbursement of portion of incentives -- Eligibility -- Computation  
10 of maximum amount -- Loan agreement -- Repayment.