

1 AN ACT relating to economic development.

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

3 ➔Section 1. KRS 65.503 is amended to read as follows:

- 4 (1) The West End Opportunity Partnership shall be governed by a board. The board  
5 shall initially consist of the following members:
- 6 (a) One (1) member appointed by the Governor for a term of two (2) years;
  - 7 (b) One (1) member appointed by the mayor of a consolidated local government  
8 for a term of two (2) years;
  - 9 (c) One (1) member of the legislative council of the consolidated local  
10 government appointed by its members for a term of three (3) years;
  - 11 (d) A representative of the University of Louisville appointed by its board of  
12 trustees for a term of three (3) years;
  - 13 (e) A representative of Simmons College of Kentucky appointed by its board of  
14 trustees for a term of three (3) years; and
  - 15 (f) 1. The following shall be appointed by the Governor:
    - 16 a. One (1) member from the NAACP of Louisville;
    - 17 b. One (1) member from OneWest in Louisville;
    - 18 c. One (1) member from Louisville Urban League;
    - 19 d. One (1) member from the Federal Reserve Bank in Louisville;
    - 20 e. One (1) member from the Volunteers of America Mid States in  
21 Louisville;
    - 22 f. One (1) member from a locally based foundation with assets over  
23 one hundred million dollars (\$100,000,000); and
    - 24 g. One (1) member from a bank with local assets greater than one  
25 billion dollars (\$1,000,000,000).
  - 26 2. The initial appointments of the members described in subparagraph 1. of  
27 this paragraph shall be for terms as follows:

- 1           a. Two (2) members for a term of one (1) year;
- 2           b. Two (2) members for a term of two (2) years;
- 3           c. Two (2) members for a term of three (3) years; and
- 4           d. One (1) member for a term of four (4) years.
- 5 (2) The board shall include in its bylaws a process for appointing one (1) member from
- 6 each of the nine (9) neighborhoods in the development area as additional members.
- 7 The process shall:
- 8 (a) Ensure the nine (9) members are each from a different neighborhood;
- 9 (b) Require that, at all times, at least one (1) of the nine (9) members representing
- 10 the neighborhoods shall be between the ages of eighteen (18) and thirty (30)
- 11 at the time of appointment or reappointment; and
- 12 (c) Provide that the initial appointment of the members be for terms as follows:
- 13           1. Four (4) members for a term of two (2) years; and
- 14           2. Five (5) members for a term of three (3) years.
- 15 (3) **If a member appointed under subsection (1) of this section is unable or unwilling**
- 16 **to serve on the board, the board may substitute an appointed member by majority**
- 17 **vote to serve on the board for the remainder of the appointee's term. The board**
- 18 **shall identify an entity that is located in or has a history of service to the West**
- 19 **End Opportunity Partnership area from which a potential substitute appointee**
- 20 **can be selected.**
- 21 **(4)** After expiration of the term limits provided in subsections (1) and (2) of this
- 22 section, the board shall self-perpetuate. The overall makeup of the board shall
- 23 remain the same unless an institution ceases to exist or changes corporate form. All
- 24 successors of the representatives described in subsection (1) of this section shall
- 25 serve four (4) year terms and all successors of the representatives described in
- 26 subsection (2) of this section shall serve three (3) year terms. No individual shall
- 27 serve more than two (2) consecutive terms.

1 ~~(5)~~~~(4)~~ The head of economic development for the consolidated local government, or  
2 his or her designee, and the secretary of the Cabinet for Economic Development, or  
3 his or her designee, shall be nonvoting, ex officio members of the West End  
4 Opportunity Partnership;

5 ~~(6)~~~~(5)~~ The membership of the board shall not exceed twenty-one (21) voting  
6 members.

7 ~~(7)~~~~(6)~~ The majority of the board's membership shall reflect the racial majority of the  
8 residents living in the development area.

9 ~~(8)~~~~(7)~~ A chair of the board shall be selected annually from its members and shall  
10 have responsibility for board meeting agendas and presiding at board meetings.

11 ~~(9)~~~~(8)~~ Members of the board shall be entitled only to reimbursement from the West  
12 End Opportunity Partnership for actual expenses incurred in the performance of  
13 their duties as board members.

14 ~~(10)~~~~(9)~~ A majority of the entire voting members of the board shall constitute a  
15 quorum, and all actions of the board shall be by vote of a majority of its entire  
16 voting membership.

17 ~~(11)~~~~(10)~~ A member of the board shall abstain from action on an official decision in  
18 which he or she has or may have a personal or private interest, or if the member is  
19 affiliated with any party conducting business with the West End Opportunity  
20 Partnership, shall disclose the existence of that personal or private interest or  
21 affiliation in writing to the other members of the board on the same day on which  
22 the member becomes aware that the interest or affiliation exists or that an official  
23 decision may be under consideration by the board. The member which has or may  
24 have a personal or private interest or affiliation shall be absent from all meetings  
25 and votes in relation to the matter.

26 ~~(12)~~~~(11)~~ As a prerequisite to service, each appointee to the board and each member of  
27 the West End Louisville Advisory Council established in KRS 65.506 shall

1 participate in a board-sanctioned training program on the topics of community and  
2 economic development, finance, equity and community engagement, gentrification,  
3 and the implications of these concepts.

4 ➔Section 2. KRS 65.505 is amended to read as follows:

- 5 (1) All documentation, records, and release of incremental revenues relating to local  
6 tax revenues shall be maintained and determined by the governing body.
- 7 (2) All documentation, records, and release of incremental revenues relating to state tax  
8 revenues shall be maintained and determined by the Department of Revenue.
- 9 (3) Upon notice from the West End Opportunity Partnership, the governing body  
10 obligated under a local participation agreement and the Department of Revenue  
11 shall release to the West End Opportunity Partnership the incremental revenues due.
- 12 (4) (a) The governing body and the Department of Revenue shall have no obligation  
13 to refund or otherwise return any of the incremental revenues to the taxpayer  
14 from whom the incremental revenues arose or are attributable.
- 15 (b) No additional incremental revenues resulting from audit, amended returns, or  
16 other activity for any period shall be transferred after the initial release to the  
17 West End Opportunity Partnership for that period.
- 18 (5) If the West End Opportunity Partnership issues bonds for development within the  
19 development area and incremental revenues have been pledged for that  
20 development, the West End Opportunity Partnership shall maintain a separate  
21 account to account for the:
- 22 (a) Bond proceeds received;
- 23 (b) Incremental revenues received; and
- 24 (c) Payment of debt charges of the bond.
- 25 (6) The West End Opportunity Partnership shall provide a biennial report to the Interim  
26 Joint Committee on Appropriations and Revenue on or before August 1, 2023, and  
27 on or before August 1 of each odd-numbered year thereafter. The report shall

1 contain the following information:

- 2 (a) The amounts of moneys received by private sector investors, the consolidated  
3 local government, and the Commonwealth, including the party that made the  
4 payment;
- 5 (b) The annual financial statements of the West End Opportunity Partnership,  
6 including the current balances of all funds and accounts of the West End  
7 Opportunity Partnership;
- 8 (c) The total amount of state tax revenues and local tax revenues received by the  
9 West End Opportunity Partnership for the preceding biennial period  
10 categorized by each type of tax;
- 11 (d) The operating expenditures incurred by the West End Opportunity  
12 Partnership, including management fees, investment fees, legal fees, or  
13 administrative fees incurred;
- 14 (e) A list of the projects supported by investments from the West End  
15 Opportunity Partnership in the preceding year and a description of the  
16 investment amount contributed by the West End Opportunity Partnership for  
17 each project;
- 18 (f) The amount of bonds issued or other borrowed moneys received by the West  
19 End Opportunity Partnership;
- 20 (g) Any personal or private interests or affiliated board members as described in  
21 KRS 65.503(11)(~~10~~); and
- 22 (h) Upon request from the General Assembly, copies of the West End  
23 Opportunity Partnership's bylaws and any contracts or agreements in which  
24 the West End Opportunity Partnership is a party.

25 ➔Section 3. KRS 154.21-015 is amended to read as follows:

26 As used in KRS 154.21-010 to 154.21-040:

- 27 (1) "Cabinet" means the Cabinet for Economic Development;

- 1 (2) "Eligible grant recipient" means a grant applicant that is a local government or an  
 2 economic development authority in an economic development district in this  
 3 Commonwealth that is engaged in an eligible project;
- 4 (3) "Eligible project" means an economic development project with available  
 5 matching funds for the project on a dollar-for-dollar basis that is either:  
 6 (a) Initiated on publicly owned property; or  
 7 (b) If the project's eligible use includes property acquisition or a due diligence  
 8 study, then the property shall come with either a:  
 9 1. Legally binding letter of intent or option for the sale to an eligible  
 10 grant recipient; or  
 11 2. Sale agreement for the sale to an eligible grant recipient~~on property~~  
 12 ~~with a letter of intent or sale agreement for the sale to an eligible grant~~  
 13 ~~recipient with available matching funds for the project on a dollar for-~~  
 14 ~~dollar basis and that satisfies the evaluation criteria in KRS 154.21-035];~~
- 15 (4) "Eligible use" means the authorized purpose for which an awarded grant may be  
 16 used depending on the source of funds from the Commonwealth. "Eligible use"  
 17 may include but is not limited to expenditure in any of the following categories or  
 18 some combination thereof:  
 19 (a) Due diligence study;  
 20 (b) Property acquisition;  
 21 (c) Infrastructure extension or improvement;  
 22 (d) Site preparation work;  
 23 (e) Building construction or renovation; or  
 24 (f)(e) Road improvement; and
- 25 (5) "Regional project" means an eligible project that is proposed by eligible grant  
 26 recipients residing in different counties in this Commonwealth who submit a single  
 27 grant application as co-applicants.

1        ➔Section 4. KRS 154.21-020 is amended to read as follows:

- 2        (1) The Kentucky Product Development Initiative is hereby established under the  
3        cabinet. The cabinet shall partner with the Kentucky Association for Economic  
4        Development to administer the program. The cabinet's administration of the  
5        program includes but is not limited to the following:
- 6        (a) Creating and making available a standardized grant application and regional  
7        grant application;
  - 8        (b) ~~Developing~~ Adopting a standardized scoring system pursuant to KRS  
9        154.21-040;
  - 10        (c) Reviewing the applications and proposals submitted by the proposed grant  
11        recipients;
  - 12        (d) Verifying the eligibility of the proposed grant recipients;
  - 13        (e) Verifying that the proposed grant recipient seeks grant money for an eligible  
14        project prior to prioritizing and recommending the eligible grant recipient and  
15        eligible project to the cabinet; and
  - 16        (f) Awarding grants to selected eligible grant recipients in two (2) rounds of  
17        funding.
- 18        (2) Upon receipt of eligible grant recipients and eligible project recommendations and  
19        prioritization from the Kentucky Association for Economic Development and the  
20        third-party independent site selection consultant, the cabinet shall verify and  
21        process the eligible grant recipients and eligible project recommendations with the  
22        intent to approve and award grants matching the selected grant recipient's  
23        contribution to its eligible project on a dollar-for-dollar basis, under the economic  
24        development fund program pursuant to KRS 154.12-100~~, up to ten percent (10%)~~  
25        ~~of the total funds appropriated to the Kentucky Product Development Initiative by~~  
26        ~~the General Assembly].~~
- 27        (3) (a) Prior to the first round of grant awards, the cabinet shall allocate a percentage

1 of the total funds appropriated to this program by the General Assembly to  
2 each county in the Commonwealth. When awarding grants in the first round  
3 of funding, the cabinet shall not award grants to an eligible grant recipient or a  
4 group of eligible grant recipients in excess of the amount allocated to the  
5 county in which it or they are located, except when pooled pursuant to  
6 subsection (4) of this section. The allocation shall be made according to the  
7 following calculations:

- 8 1. For all counties except Jefferson County, the percentage of the fund  
9 each county is eligible to receive shall be **determined by each county's**  
10 **proportion of the state's population based on the most recent federal**  
11 **decennial census;**~~[the percentage of the state population that the~~  
12 ~~county's total population makes up, then multiplied by two (2); and]~~
- 13 2. For Jefferson County, the percentage of the fund it shall be eligible to  
14 receive **shall be determined by the county's proportion of the state's**  
15 **population based on the most recent federal decennial census, which**  
16 **shall be discounted by fifty percent (50%); and**~~[is the percentage of the~~  
17 ~~state population that Jefferson County's total population makes up]~~
- 18 **3. The maximum funding available for an approved development project**  
19 **is two million dollars (\$2,000,000) per county except as permitted by**  
20 **subsection (4) of this section.**

- 21 (b) If there are funds available after the first round of grant awards, the cabinet  
22 shall initiate a second round of grant awards through the Kentucky Product  
23 Development Initiative. Any remaining funds available for program use shall  
24 be pooled and available to eligible grant recipients from all counties on a first-  
25 come, first-served basis, but each county's eligible allocation shall not exceed  
26 two million dollars (\$2,000,000) except as permitted by subsection (4) of this  
27 section.



1 (4) For selected eligible grant recipients that are involved in a regional project, the  
2 cabinet may pool the potential allocation of funds available for each county  
3 represented by the eligible grant recipients for the grant amount awarded. For  
4 example, if a county that is eligible for up to ten percent (10%) of the program  
5 funds based on the calculations in subsection (3) of this section partners with a  
6 county that is eligible for five percent (5%) of the program funds based on the  
7 calculations in subsection (3) of this section, then the total allocation for the  
8 regional project that the cabinet may award is fifteen percent (15%).

9 (5) Grant applicants that have received discretionary mega-development project  
10 funding ~~located in a county that participates in the Rural Project Development~~  
11 ~~Initiative~~ shall be disqualified from participation in the Kentucky Product  
12 Development Initiative.

13 ➔Section 5. KRS 154.21-035 is amended to read as follows:

14 (1) The Kentucky Association for Economic Development shall evaluate each  
15 applicant's eligible project according to the criteria described in this section and  
16 KRS 154.21-040 for the purposes of compiling a recommendation and score for the  
17 eligible project and project site pursuant to KRS 154.21-040.

18 (2) The Kentucky Association for Economic Development and the third-party  
19 independent site selection consultant shall consider the requirements in the  
20 following five (5) categories in the evaluation of proposed projects:

- 21 (a) Property availability as described in subsection (3) of this section;
- 22 (b) Property development ability as described in subsection (4) of this section;
- 23 (c) Zoning availability as described in subsection (5) of this section;
- 24 (d) Transportation accessibility as described in subsection (6) of this section; and
- 25 (e) Utility adequacy as described in subsection (7) of this section.

26 (3) The property that the eligible project occupies or is proposed to occupy shall be  
27 available. Property shall be deemed available for the purposes of this program if the

1 property is:

2 (a) Publicly owned; or

3 (b) **If the project's eligible use includes property acquisition or a due diligence**  
 4 **study, then the property shall come with either a:**

5 **1. Legally binding letter of intent or option for the sale to an eligible**  
 6 **grant recipient; or**

7 **2. Sale agreement for the sale to an eligible recipient**~~[Property with a~~  
 8 ~~letter of intent or sale agreement for the sale to an eligible grant~~  
 9 ~~recipient].~~

10 (4) The property that the eligible project occupies or is proposed to occupy shall be  
 11 developable. Property shall be deemed developable if:

12 (a) The acreage intended for development is clearly defined by either:

13 1. The grant applicant; or

14 2. An engineering partner during or after a site visit, if the applicant is  
 15 unable to define the developable acreage; and

16 (b) The property is free of impediments to development, or a known impediment  
 17 can be mitigated by a grant applicant. A property is free of impediments if it:

18 1. Is located outside of the one hundred (100) year and five hundred (500)  
 19 year flood zone;

20 2. Is free of recognized environmental conditions;

21 3. Is free of wetlands;

22 4. Is free of state and federally threatened and endangered species;

23 5. Is free of areas of archaeological or historical significance; and

24 6. Possesses soils compatible with the grant applicant's intended  
 25 development.

26 (5) The property that the eligible project occupies or is proposed to occupy shall be  
 27 appropriately zoned for the intended use or shall be able to be rezoned within ninety

1 (90) calendar days. The properties surrounding the grant applicant's project site  
2 shall be zoned so they are compatible with the grant applicant's intended  
3 development and use of the project site.

4 (6) The property that the eligible project occupies or is proposed to occupy shall be  
5 directly served by a road or roads that are compatible with the intended use of the  
6 property. Additionally, if the property is marketed as rail-served, the property shall  
7 be deemed rail-served if:

8 (a) The grant applicant provides documentation from the rail provider that  
9 evinces that rail infrastructure exists and the rail provider actually provides  
10 rail service; or

11 (b) If the rail service does not exist at the time of the grant application, the grant  
12 applicant provides documentation from the rail provider that evinces that the  
13 project site will be able to be rail-served within twelve (12) months.

14 (7) The property that the eligible project occupies or is proposed to occupy shall have  
15 access to adequate utilities and shall be served or able to be served by the  
16 following:

17 (a) Electric infrastructure;

18 (b) Natural gas;

19 (c) Water infrastructure and a public water system;

20 (d) Wastewater infrastructure and a public wastewater treatment plant, excluding  
21 a septic wastewater treatment system; and

22 (e) Fiber telecommunications infrastructure.