

1 AN ACT relating to electric utilities.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 96 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) No later than ninety (90) days after the effective date of this Act and*
6 *notwithstanding any provision of KRS Chapter 96 to the contrary, all city-owned*
7 *utilities that furnish electric power at retail to the public for compensation,*
8 *regardless of whether that service is combined with other utility services, shall*
9 *have established a utility board formed under KRS Chapter 96 whose jurisdiction*
10 *is separate from the city's legislative body, to:*

11 *(a) Approve utility rates and conduct other business matters pertinent to*
12 *running an electric utility;*

13 *(b) Set utility rates that are fair, just, and reasonable and predicated only on the*
14 *utility's cost of service to its customers; and*

15 *(c) Have exclusive supervision, management, and control of the operation,*
16 *maintenance, and extension of the electric plant and service.*

17 *(2) Tariffed rates for electric service by customer class shall have equitable terms of*
18 *service, and the electric utility shall not collect more or less than the tariffed rate.*

19 *(3) The board shall:*

20 *(a) Prohibit discriminatory rates for persons or classes of service;*

21 *(b) Approve a set of rules for providing responsive, equitable customer service;*
22 *and*

23 *(c) Establish rules to prohibit commingling of funds between the regulated*
24 *electric utility and nonregulated functions of the city or of other services*
25 *provided by the electric utility.*

26 *(4) Notwithstanding any provision of KRS Chapter 96 to the contrary, remittances to*
27 *the utility from ratepayers and any other funds that the utility acquires for its*

1 operations, physical infrastructure of plant asset, and maintenance shall only be
 2 used for recouping the cost of delivering electric power service to the utility
 3 customers. Utility funds shall not be used for any general government service.
 4 Accounts of the city government shall be segregated and maintained thereafter as
 5 separate accounts.

6 (5) Notwithstanding any other provision of law to the contrary, and to prevent the
 7 administrative and managerial decisions of the utility board being impacted by
 8 political motivations, members of the utility board shall not have served as a
 9 member of the city's legislative body for one (1) year before being appointed to
 10 the utility board.

11 (6) Notwithstanding any provision of this section, no municipal electric utility shall
 12 be deemed to have been placed under the jurisdiction of the Kentucky Public
 13 Service Commission except that the commission shall provide:

14 (a) Guidance and technical assistance to city-owned municipal electric utilities
 15 regarding rate setting and other subjects related to managing electric utility
 16 retail service; and

17 (b) Training for utility board members in the same manner as is provided for
 18 water board members under KRS Chapter 74.

19 ➔Section 2. KRS 42.4588 is amended to read as follows:

20 (1) (a) A Local Government Economic Development Program is established to
 21 consist of a system of grants to counties to attract new industry. Grants from
 22 funds provided for in KRS 42.4592(1)(a) and (b) shall be administered by the
 23 Department for Local Government. Grants from funds provided for in KRS
 24 42.4592(1)(c) shall be administered by the Kentucky Economic Development
 25 Finance Authority.

26 (b) All references in this section to the commissioner of the Department for Local
 27 Government relate only to the grants or industrial development projects

1 funded through KRS 42.4592(1)(a) and (b). All references in this section to
2 the secretary of the Cabinet for Economic Development or the Kentucky
3 Economic Development Finance Authority relate only to grants or industrial
4 development projects funded through KRS 42.4592(1)(c).

5 (2) Grants obtained under this program shall be used for:

6 (a) Industrial development projects if an industrial firm has agreed with the local
7 government, to the satisfaction of the Kentucky Economic Development
8 Finance Authority or the Department for Local Government, to develop, in
9 conjunction with the industrial development project, manufacturing,
10 processing, assembling, or other facilities approved by the secretary of the
11 Cabinet for Economic Development or the commissioner of the Department
12 for Local Government;

13 (b) Industrial development projects if the secretary of the Cabinet for Economic
14 Development or the commissioner of the Department for Local Government
15 finds that the project is necessary for the creation of an environment for new
16 industry in order to obtain an agreement from an industrial firm to develop
17 manufacturing, processing, assembling, or other facilities approved by the
18 secretary of the Cabinet for Economic Development or the commissioner of
19 the Department for Local Government; and

20 (c) Debt service for industrial development projects, as defined in subsection
21 (2)(a) and (b) of this section, or for facilities approved by the secretary of the
22 Cabinet for Economic Development or the commissioner of the Department
23 for Local Government under the provisions of subsection (3) of this section.

24 (3) The secretary of the Cabinet for Economic Development or the commissioner of the
25 Department for Local Government may approve facilities, other than
26 manufacturing, processing, or assembling facilities, for industrial development
27 projects when the secretary or the commissioner finds that the facility will add

1 value to a product. Value-added facilities shall include data processing,
2 telecommunication, and distribution facilities but shall not include retail facilities or
3 coal mining, coal processing, or coal transportation facilities. The secretary or the
4 commissioner may also approve privately owned facilities for transient lodging and
5 recreation where the secretary or commissioner finds that the cost of the recreation
6 component of the facility is equal to, or greater than, the cost of the lodging
7 component of the facility. The criteria for approval of applications for grants
8 provided for in subsection (10)(a), (b), and (c) of this section shall be paramount in
9 the case of lodging and recreational facilities.

10 (4) Applications for grants from funds provided for in KRS 42.4592(1)(a) and (b) shall
11 be made by the legislative bodies of one (1) or more counties with accounts in the
12 local government economic development fund. Applications for grants from funds
13 provided for in KRS 42.4592(1)(c) shall be made by the legislative bodies of two
14 (2) or more counties with accounts in the local government economic development
15 fund. No grant shall be awarded without application for a grant.

16 (5) A grant may be awarded for an industrial development project located in a county
17 that does not have an account in the local government economic development fund,
18 if the secretary of the Cabinet for Economic Development or the commissioner of
19 the Department for Local Government finds that the industrial development project
20 may be reasonably expected to create jobs for residents of the local unit or units of
21 government applying for the grant. Application for the grant shall be made by the
22 legislative bodies of one (1) or more counties with accounts in the local government
23 economic development fund. **Counties that contain a municipality that owns and**
24 **operates a municipal electric utility shall be in compliance with Section 1 of this**
25 **Act to remain eligible for grants under this section.**

26 (6) An industrial development project may include legal, accounting, engineering, and
27 marketing expenses for a regional industrial park, in addition to the activities set

1 forth in subsection (11)(a) of this section.

2 (7) Grants awarded from funds provided for in KRS 42.4592(1)(a) and (b) shall not
3 exceed the total balance of the accounts of the applicant counties at the time of the
4 award of the grant.

5 (8) Grants awarded under the provisions of subsection (2)(c) of this section may be for
6 a period not to exceed the current biennium of the Commonwealth and shall be
7 limited to an amount not to exceed the amount estimated to be allocated to the
8 applicant county or counties for the current biennium under the provisions of KRS
9 42.4592(1)(a) and (b).

10 (9) Approval of grant applications shall be by the secretary of the Cabinet for
11 Economic Development or the commissioner of the Department for Local
12 Government. Award of grants from funds provided for in KRS 42.4592(1)(c) shall
13 be by the Kentucky Economic Development Finance Authority. Award of grants
14 from funds provided for in KRS 42.4592(1)(a) and (b) shall be by the commissioner
15 of the Department for Local Government.

16 (10) Criteria for approval of applications and the award of grants to be considered, if
17 applicable, shall include:

18 (a) The number of jobs to be created or preserved, directly or indirectly, by the
19 industrial development project;

20 (b) Payrolls, and the taxes generated, both at the state and local levels, by the
21 industrial development project and taxes generated by the employment
22 created or preserved by the industrial development project;

23 (c) The size, nature, and cost of the industrial development project, including the
24 prospect of the industrial development project providing long-term jobs in
25 enterprises consistent with the changing economies of the affected local units
26 of government;

27 (d) The needs, and degree of needs, of the local units of government which will

- 1 be affected by the industrial development project;
- 2 (e) The needs of any industrial firm benefiting from the industrial development
3 project;
- 4 (f) The amount and kind of assistance, if any, available to an industrial firm from
5 other government agencies through tax exemption or abatement, financing
6 assistance through industrial development bonds, and otherwise, with respect
7 to the industrial development project;
- 8 (g) The amount of capital made available to the facility by lenders and by the
9 industrial firm; and
- 10 (h) The economic feasibility of the facility.
- 11 (11) For purposes of this section:
- 12 (a) "Industrial development project" includes the acquisition of any real estate
13 and the construction, acquisition, and installation thereon and with respect
14 thereto of improvements and facilities necessary and useful for the
15 improvement of the real estate for conveyance to or lease to industrial firms to
16 be used for manufacturing, processing, or assembling purposes, including
17 surveys; site tests and inspections; subsurface site work; excavation, removal
18 of structures, roadways, cemeteries, and other surface obstructions; filling,
19 grading, and provision of drainage; storm water retention; installation of
20 utilities, such as water, sewer, sewage treatment, gas, electricity,
21 communication, and other similar facilities; off-site construction of utility
22 extensions to the boundaries of the real estate; construction and installation on
23 the real estate of the industrial firm of buildings, including buildings to be
24 used for worker training and education; rail facilities; roads; sidewalks; curbs;
25 other improvements to the real estate necessary to its manufacturing,
26 processing, assembling, or other approved use by industrial entities;
27 workforce training; and job development incentive grants;

1 (b) "Industrial firm" means any corporation, limited liability company, limited
2 liability partnership, partnership, person, or other legal entity, whether
3 domestic or foreign, which will itself or through its subsidiaries and affiliates
4 construct and develop a manufacturing, processing, assembling, or other
5 approved facility on the site of an industrial development project financed
6 pursuant to this section;

7 (c) "Job development incentive grant" means an award to a county of funds from
8 its account administered by the Department for Local Government pursuant to
9 KRS 42.4592(1)(a) and (b) for the use by the county to encourage job
10 development for those industrial development projects located in that county
11 which create at least twenty-five (25) new full-time jobs held by Kentucky
12 residents who receive a minimum wage of at least one hundred thirty percent
13 (130%) of the federal minimum wage. Each job development incentive grant
14 shall be limited to five thousand dollars (\$5,000) for each job created which
15 fulfills the requirements of this subsection. The industrial firm receiving the
16 job development incentive grant shall pay its employees at the project site an
17 average wage equal to or greater than one hundred fifty percent (150%) of the
18 federal minimum wage and shall invest at least ten thousand dollars (\$10,000)
19 per new job created. After a fiscal court has received authorization for the job
20 development grant by the Department for Local Government, the county, the
21 industrial firm, and the Department for Local Government shall enter into an
22 agreement committing the grant funds to be disbursed at such time as the
23 industrial firm certifies the authenticity of the following information to be
24 delivered to the county:

- 25 1. The industrial firm has made at least the minimum investment required;
- 26 2. At least twenty-five (25) new full-time Kentucky jobs have been created
27 at the project site by the industrial firm;

- 1 3. No employee at the project site is paid a salary by the industrial firm
2 which is less than one hundred thirty percent (130%) of the federal
3 minimum wage;
- 4 4. The employees at the project site are paid an average wage by the
5 industrial firm at least equal to one hundred fifty percent (150%) of the
6 federal minimum wage;
- 7 5. Each employee hired for the project by the industrial firm shall have
8 worked on a full-time basis at the minimum wages described in this
9 section at least twelve (12) full consecutive months at the site prior to
10 any grant funds disbursement; and
- 11 6. No job created by the industrial firm after twenty-four (24) months from
12 the date of the first eligible hire at the project site shall be considered for
13 the grant.

14 If the county is satisfied the information provided is accurate and qualifies the
15 industrial firm for the job development incentive grant as described in the
16 agreement, it shall forward the certified information to the Department for
17 Local Government, which shall make the job development grant disbursement
18 upon sufficient evidence that all terms of the agreement have been met; and

19 (d) "Regional industrial park" means an industrial development project authorized
20 for a grant award by the Kentucky Economic Development Finance Authority
21 for a minimum of three (3) counties eligible for grant funds provided for in
22 KRS 42.4592(1)(c), which coalition may include a county as approved under
23 subsection (5) of this section.

24 (12) Findings by the secretary of the Cabinet for Economic Development or the
25 commissioner of the Department for Local Government, provided for in subsections
26 (2)(b), (3), and (5) of this section, shall be made in writing to the affected counties,
27 the Governor, and the Legislative Research Commission.

- 1 (13) By October 1 of each odd-numbered year, the secretary of the Cabinet for
2 Economic Development and the commissioner of the Department for Local
3 Government shall each provide, in writing, to the Governor and the Legislative
4 Research Commission a listing of all applications for grants received pursuant to
5 this section subsequent to the last report, indicating which applications were
6 approved or disapproved, with the reason for disapproval when the decision was to
7 disapprove, and a listing of all grants awarded, with the amount of the award, the
8 recipient county, and the related industrial development project.
- 9 (14) (a) Projects specifically authorized by appropriations made by the General
10 Assembly in an enacted budget bill, with the funding source identified as
11 funds allocated to individual counties under KRS 42.4592(1)(a) or (b), shall
12 be deemed approved and shall not be subject to the application process
13 established in this section.
- 14 (b) Projects described in paragraph (a) of this subsection shall be subject to a
15 memorandum of agreement between the entity identified in the appropriation
16 and the Department for Local Government. The memorandum of agreement
17 shall address the legal requirements for the disbursement and accounting of
18 funds.
- 19 (c) Within thirty (30) days of the receipt of a written request from an entity
20 designated in the appropriation for funding related to a project described in
21 paragraph (a) of this subsection, the Department for Local Government shall
22 prepare and send a memorandum of agreement to the designated entity for
23 review and signature. Upon receipt of the signed memorandum of agreement
24 from the designated entity, the Department for Local Government shall
25 release the funds for the project for use by the designated entity.
- 26 (d) Funds appropriated for specific projects as described in paragraph (a) of this
27 subsection shall not be expended for any other purpose, provided that the

1 commissioner of the Department for Local Government may, upon written
2 request by a designated entity identifying an extraordinary circumstance or
3 emergency situation, approve the reallocation of funds appropriated for a
4 specific project as described in paragraph (a) of this subsection to the extent
5 necessary to address the extraordinary circumstance or emergency situation.
6 Any approval under this paragraph shall be made in writing, and shall be
7 reported to the State Budget Director and the Interim Joint Committee on
8 Appropriations and Revenue within thirty (30) days of the approval being
9 made.

10 ➔Section 3. KRS 96.170 is amended to read as follows:

11 **(1)** The legislative body of any city may, by ordinance, provide the city and its
12 inhabitants with water, light, power, and heat, by contract or by works of its own,
13 located either within or beyond the boundaries of the city.

14 **(2)** ***The city may***~~[,]~~ make regulations for the management thereof, ***except that if the city***
15 ***elects to provide its own electric service, the service shall be administered through***
16 ***a utility board with the powers afforded it by virtue of its city classification.***

17 **(3)** ***The utility board shall***~~[, and]~~ fix and regulate the prices to private consumers and
18 customers, ***terms of service, and maintain accounts in accordance with Section 1***
19 ***of this Act.***

20 ➔Section 4. KRS 96.200 is amended to read as follows:

21 Except as otherwise provided in KRS 96.550 to 96.900~~[,]~~ ***and the provisions of Section 1***
22 ***of this Act,*** the legislative body of any city may, by ordinance, provide in what manner
23 and for what purpose any profits, earnings or surplus funds arising from the operation of
24 any public utility owned or operated by the city may be used and expended. The
25 ordinance may be amended or repealed from time to time. Until such an ordinance is
26 enacted any surplus earnings shall be paid into the city treasury, to be expended for the
27 general purposes of government in the city.