

1 AN ACT relating to high intensity technological infrastructure.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO  
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 10 of this Act:*

- 6 *(1) "Community benefits agreement package" or "CBA package" means the binding*  
7 *agreement and supporting documentation submitted with the site review plan that*  
8 *identifies the community benefits to which the developer has committed, broken*  
9 *out by interim, immediate, and long-term benefits, including funding*  
10 *mechanisms, verification, and signatures of the developer or end user and the*  
11 *receiving local government or beneficiary;*
- 12 *(2) "Community benefits analysis" or "CBA" means a narrative and quantitative*  
13 *analysis submitted with the community impact report evaluating potential*  
14 *community benefits, infrastructure improvements, public-resource impacts, and*  
15 *associated costs or feasibility;*
- 16 *(3) "Community impact report" or "CIR" means a publicly available, licensed,*  
17 *professional engineer-sealed document that discloses project impacts and*  
18 *commitments;*
- 19 *(4) "Conditional use permit" or "CUP" has the same meaning as in KRS 100.111;*
- 20 *(5) "HARP" means a high intensity technological infrastructure administrative*  
21 *review permit;*
- 22 *(6) "High intensity technological infrastructure" or "HITI" means a facility,*  
23 *including but not limited to data centers, together with associated substations,*  
24 *intake and outfall works, fuel storage, and backup generation, that has an*  
25 *expected or actual monthly electrical load factor of sixty percent (60%) or*  
26 *greater, with significant associated heat rejection and water-cooling needs;*
- 27 *(7) "Local government" means any city, county, charter county government, urban-*

1 county government, consolidated local government, unified local government, or  
2 a special district; and

3 (8) "Site review plan" or "SRP" means a sealed engineering package submitted  
4 after discretionary approval to verify compliance with the requirements of  
5 Sections 1 to 10 of this Act and community impact report commitments.

6 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO  
7 READ AS FOLLOWS:

8 (1) (a) The provisions of Sections 1 to 10 of this Act shall not limit or preempt more  
9 stringent local ordinances, land use regulations, impact mitigation  
10 requirements, design standards, or conditions of approval adopted by local  
11 governments.

12 (b) Notwithstanding any provision of law to the contrary, local governments  
13 shall retain all authority to adopt standards and requirements more  
14 stringent than those reflected in applicable federal or state permits, building  
15 codes, or national engineering standards.

16 (2) Local governments shall retain discretionary authority to approve with conditions  
17 or deny proposals where substantial evidence demonstrates that impacts cannot  
18 be mitigated; however, approval with conditions is preferred where feasible.

19 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO  
20 READ AS FOLLOWS:

21 (1) In jurisdictions with planning and zoning, a HITI project shall obtain one (1) of  
22 the following from the planning commission or locally established HITI review  
23 board prior to construction:

24 (a) A CUP when located outside heavy-industrial districts or in sensitive  
25 contexts designated by local ordinance; or

26 (b) A HARP when located within heavy-industrial districts.

27 (2) A local government may, by ordinance, certify its board of adjustment for HITI

1 review authority if the board has adopted HITI procedures, completed technical  
2 and hearing training, and retained independent experts through the applicant-  
3 funded escrow required by Section 4 of this Act.

4 (3) CUP decisions are discretionary and shall be supported by substantial evidence in  
5 the record. HARP approvals are ministerial upon a complete and compliant  
6 record, and approvals may impose enforceable conditions necessary to ensure  
7 compliance with CIR and SRP commitments and applicable law.

8 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO  
9 READ AS FOLLOWS:

10 (1) In any county lacking planning and zoning authority to issue a CUP or HARP, a  
11 HITI shall not commence construction without a construction certificate issued  
12 by an entity identified in subsection (2) of this section that provides procedural  
13 equivalents to the pathways in Section 3 of this Act, which shall include:

14 (a) A professional engineer-sealed CIR;

15 (b) Mailed notice and a public hearing held in the host county;

16 (c) A developer-funded escrow deposit in an amount sufficient to cover the  
17 actual and reasonable costs of independent technical review and inspection  
18 retained by the decision-making body, which shall be replenished upon  
19 request and refunded upon conclusion of review;

20 (d) Utility validation letters;

21 (e) An SRP prior to the issuance of construction permits; and

22 (f) Conversion of the CBA into a CBA package.

23 (2) The Kentucky State Board on Electric Generation and Transmission Siting  
24 established in KRS 278.702, or an alternative panel designated jointly by the  
25 Energy and Environment Cabinet and the Department for Local Government,  
26 shall administer construction certificates for HITI in counties without planning  
27 and zoning.

1 (3) A construction certificate review established under subsection (2) of this  
2 sectionpanel shall include the following persons who shall participate fully in all  
3 hearings, deliberations, and issuing conditions of approval:

4 (a) Two (2) voting representatives from the host community;

5 (b) The county judge/executive from the host community or designee; and

6 (c) An additional representative designated by the fiscal court for the host  
7 community or, if applicable, by a joint city-county governing body.

8 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO  
9 READ AS FOLLOWS:

10 (1) The HITI project owner and operator of record shall be disclosed prior to any  
11 public hearing on the CUP, HARP, or construction certificate.

12 (2) A confidentiality agreement relating to the siting, construction, or operation of a  
13 HITI project shall not restrict a governing body, its officers, or its retained  
14 independent consultants from disclosing the identity of the owner or operator, the  
15 nature and scale of proposed facilities, or anticipated demands on public  
16 infrastructure as presented in the CIR and SRP. Proprietary technical details  
17 may be redacted pursuant KRS 61.870 to 61.884, but not the disclosures required  
18 in this subsection.

19 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO  
20 READ AS FOLLOWS:

21 The CIR shall be prepared, signed, and sealed under the responsible charge of a  
22 Kentucky-licensed professional engineer and include at minimum the following:

23 (1) An executive summary, not to exceed two (2) pages, typewritten on white paper,  
24 size eight and one-half (8-1/2) by eleven (11) inches, single-spaced in a twelve  
25 (12) point font, which shall include:

26 (a) The project purpose, site, schedule, high-level impacts, and mitigations; and

27 (b) The order of probable construction costs with class accuracy, basis, and

1           major costs;

2   (2) The following graphics and visuals without substitutions:

3           (a) Plan view site layout showing building footprints, including any substations,  
4           tanks, generators, intake or outfall structures, stormwater facilities, fire  
5           lanes, and security areas;

6           (b) Vicinity and context maps of at least a one (1) mile radius around the HITI  
7           showing zoning, neighborhoods, schools, public facilities, waterways, and  
8           floodplains;

9           (c) Massing and elevations for principal buildings and illustrative renderings  
10           from public rights-of-way;

11           (d) Electric interconnection one (1) line diagrams and conceptual utility  
12           diagrams, including diagrams for public water supply, discharge mains, and  
13           gas lines if applicable;

14           (e) Water balance schematics and conceptual cooling process diagrams;

15           (f) Traffic and haul-route maps, with estimated volumes by phase; and

16           (g) If modeling is performed, hydraulic model figures, noise isopleths, lighting  
17           photometrics and glare diagrams, and thermal plume graphics where  
18           surface discharge is proposed;

19   (3) The following water sourcing narratives, as applicable:

20           (a) For public water systems, sources, service points, hydraulic modeling  
21           summaries, upgrades and cost responsibility, and redundancy and  
22           emergency supply provisions;

23           (b) For surface water, intake and outfall locations, expected withdrawals and  
24           discharges, seasonal variations, hydraulic and thermal summaries,  
25           entrainment and impingement protections, and permitting paths; and

26           (c) 1. For groundwater, hydrogeologic settings, wellfield concepts, modeling  
27           summaries, well monitoring programs, sealed by a Kentucky

- 1                   professional engineer or geologist.
- 2                   2. Where site access for groundwater testing is not yet obtained, the CIR
- 3                   may include a desktop hydrogeologic assessment based on publicly
- 4                   available data, regional aquifer studies, and state groundwater maps.
- 5                   Full field-verified modeling, if groundwater is selected as the primary
- 6                   water source, shall be included in the SRP;
- 7                   (4) Operational approach narratives, for land-use compatibility purposes only, which
- 8                   shall include:
- 9                   (a) Cooling configuration, emergency generation, and controls for type, count,
- 10                   and fuel;
- 11                   (b) Stormwater strategy, construction sequencing, traffic management,
- 12                   monitoring and incident reporting cadence;
- 13                   (c) Nonsensitive cybersecurity description, waste-heat handling, lighting
- 14                   systems, noise control; and
- 15                   (d) Diesel and fuel storage, fire protection, and on-site security;
- 16                   (5) Utility validation letters, which shall include:
- 17                   (a) Electric interconnection capacity, required transmission and distribution
- 18                   upgrades, cost allocation, and a narrative assessment of retail rate impacts
- 19                   on existing customers; and
- 20                   (b) Publicly supplied water capacity and redundancy, required upgrades, cost
- 21                   allocation, and a narrative assessment of retail rate impacts on existing
- 22                   customers; and
- 23                   (6) Notarized affidavits of accuracy by the applicant and principal preparers and
- 24                   Kentucky-licensed professional engineer seals on all applicable components.

25                   ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO

26 READ AS FOLLOWS:

- 27                   (1) The SRP shall be prepared and sealed by appropriate Kentucky-licensed design

1 professionals and shall include:

2 (a) Engineering drawings and basis-of-design memoranda for:

3 1. Civil, architectural, structural, electrical components, including  
4 substation concepts, mechanical and process components;

5 2. Fire protection at a Class 3 level or equivalent; and

6 3. Preliminary specification schedules for major equipment;

7 (b) Final utility coordination documents and an updated water-sourcing  
8 package aligned to the selected pathway, and pretreatment and effluent  
9 concepts, if applicable;

10 (c) Environmental and stormwater design summaries, spill prevention, and  
11 secondary containment layout where fuels or oils are present, and  
12 monitoring points and reporting cadence;

13 (d) Construction sequencing, haul-route management, and traffic control,  
14 emergency access geometry, hydrants and water supply, and fire alarm and  
15 suppression concepts;

16 (e) Appropriate compliance cross-walk mapping for CUP, HARP, and  
17 construction certificate conditions and CIR commitments to SRP features  
18 and drawings; and

19 (f) A community benefits agreement package ready for execution.

20 (2) With regard to SRP enforcement:

21 (a) A grading, building, or utility release shall not be issued until the SRP is  
22 accepted and approved as conforming to conditions and CIR commitments;

23 (b) The decision-making body may issue stop work orders, withhold certificates  
24 of occupancy, and require corrections where the SRP is inadequate,  
25 inconsistent, or misleading; and

26 (c) Material deviations discovered at SRP shall require a CUP or HARP  
27 amendment or construction-certificate amendment, as applicable.

1 (3) In heavy-industrial districts proceeding under a HARP, a grading, building, or  
 2 utility interconnection shall not approved until a HARP is issued and the SRP is  
 3 approved. The governing body may issue stop work orders, withhold certificates  
 4 of occupancy, and impose civil penalties for noncompliance.

5 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO  
 6 READ AS FOLLOWS:

7 A community benefits agreement package required by subsection (1)(f) Section 7 of  
 8 this Act at a minimum shall include the following:

9 (1) Benefit categories and deliverables, dollar values or in-kind valuations,  
 10 disbursement schedules, and local vendor and labor targets;

11 (2) Quarterly or semiannual public reporting posted on the local government  
 12 website; and

13 (3) Escrow or bond amounts, dispute-resolution mechanisms, default and step-in  
 14 terms, and tie-ins to public incentives, if any.

15 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO  
 16 READ AS FOLLOWS:

17 (1) The decision-making body of a local government shall provide mailed notice to  
 18 owners and addressed occupants within one (1) mile of the proposed HITI project  
 19 boundary and shall provide publication and website posting where available or  
 20 practicable. A public hearing shall be held prior to any CUP decision or  
 21 construction-certificate issuance.

22 (2) The decision-making body of a local government shall first consider conditions  
 23 that would mitigate identified incompatibilities between the proposed use of a  
 24 HITI site and its zoned use. If substantial evidence demonstrates that impacts  
 25 cannot be mitigated, the CUP may be denied, with written findings.

26 (3) All decisions under Sections 1 to 10 of this Act shall be supported by substantial  
 27 evidence in the record.

1 (4) Appeals from final actions under Sections 1 to 10 of this Act shall be taken in  
2 accordance with applicable law governing appeals from conditional use and  
3 planning commission decisions.

4 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 10 IS CREATED TO  
5 READ AS FOLLOWS:

6 (1) Any material expansion, parcel acquisition, utility-demand increase,  
7 infrastructure modification, or transition to on-site electricity generation shall  
8 require prior written approval by CUP amendment, HARP modification, or  
9 construction-certificate amendment, as applicable.

10 (2) HITI project siting and construction applicants shall attest that design and  
11 operations will comply with all applicable federal and state requirements and  
12 recognized industry standards appropriate to HITI operations. The CIR or SRP  
13 shall include a non-exhaustive listing of referenced standards used as the basis of  
14 design.