

**COMMONWEALTH OF KENTUCKY STATE FISCAL NOTE STATEMENT
LEGISLATIVE RESEARCH COMMISSION
2018 REGULAR SESSION**

MEASURE

2018 BR NUMBER **1106**

HOUSE BILL NUMBER **557**

RESOLUTION NUMBER _____

AMENDMENT NUMBER _____

SUBJECT/TITLE **AN ACT relating to economic development.**

SPONSOR **Representative Petrie**

NOTE SUMMARY

FISCAL ANALYSIS: IMPACT NO IMPACT INDETERMINABLE IMPACT

LEVEL(S) OF IMPACT: STATE LOCAL FEDERAL

BUDGET UNIT(S) IMPACT: _____

FUND(S) IMPACT: GENERAL ROAD FEDERAL RESTRICTED AGENCY _____ OTHER

FISCAL SUMMARY

FISCAL ESTIMATES	2017-2018	2018-2019	2019-2020	ANNUAL IMPACT AT FULL IMPLEMENTATION
REVENUES		(Indeterminable)	(Indeterminable)	(Indeterminable)
EXPENDITURES		(Minimal)	(Minimal)	(Minimal)
NET EFFECT		(Indeterminable)	(Indeterminable)	(Indeterminable)

() indicates a decrease/negative

MEASURE’S PURPOSE: HB 557 abolishes the Kentucky Environmental Stewardship Act; the state strategic plan for economic development; the Agricultural Warehousing Sites Cleanup Fund; Signature Project Loan Support Program; Incentives for Energy Independence Act; and the requirement to hire an executive director position for the Bluegrass State Skills Corporation. It amends current economic development incentive programs and revises the reporting requirements of economic development incentive programs.

PROVISIONS/MECHANICS: Section 1: Amends KRS 56.440 to add the definitions for “headquarters”, “nonretail service technology project”, and “nonretail service and technology entity”.

Section 2: Amends KRS 56.510 to make headquarters and nonretail service technology projects eligible to be financed by the issuance or sale of State Properties and Buildings Commission revenue bonds and includes headquarters and nonretail service technology projects in the applicable provisions.

Section 3: Amends KRS 65.7049 to delete the language in subsection (3)(b) and replace it with a reference KRS 65.7043(2)(a)(1)b. This modification adds two additional projects to qualify as a local development area, which are: “the project being proposed for a development area that includes an arena as part of the proposed development”; and “the project being proposed is a mixed-use development that includes a tract of previously undeveloped land that was owned by a liberal arts educational institution within four (4) years prior to April 10, 2017, and the previously undeveloped land is bounded on one (1) side by a four (4) lane United States highway on April 10, 2017. No more than fifty percent (50%) of the previously undeveloped land shall be used for qualified mixed uses”.

Section 4: Creates a new section of KRS Chapter 141 to create the skills training investment credit; sunsets it for taxable years beginning on or after July 1, 2022; adds provisions for taking the credit; states the Department of Revenue may promulgate regulations for the credit; and requires reporting requirements of the Department of Revenue.

Section 5: Amends KRS 141.0205 to add KRS 154.12-207 to the list of economic development credits a taxpayer is allowed to take against the tax imposed by KRS 141.020, 141.040, and 141.0401.

Section 6: Amends KRS 148.546 to remove the requirement that the Tourism Development Authority shall file an annual report with the Governor and the Legislative Research Commission and also the requirement that the report be submitted in cooperation with the Cabinet for Economic Development and included in the single annual report required in KRS 154.12-2035. The amendment adds new language that the Tourism Development Authority shall prepare an annual report and post it on the Tourism, Arts and Heritage Cabinet’s website.

Section 7: Amends KRS 148.8591 to change the Tourism and Development Authority reports in the same manner as Section 6.

Section 8: Amends KRS 154.10-050 to remove the submission of a strategic plan for economic development to the board and program evaluation reports to the board from the required job duties of the secretary of the Cabinet for Economic Development.

Section 9: Creates a new section of KRS 154.12-2084 to 154.12-2089 to prohibit new applications from being accepted under this statute range for the skills training investment credits after the effective date of the Act, but allows outstanding projects with preliminary or final approval to continue under this statute range.

Section 10: Amends KRS 154.12-100 to remove the requirement that the Cabinet for Economic Development submit an annual report to the Capital Projects and Bond Oversight Committee, the Governor, and the Legislative Research Commission. The amendment adds new language to require the Cabinet for Economic Development to prepare and post the annual report to the cabinet’s website by November 1st of each year.

Section 11: Amends KRS 154.12-204 to revise current definitions and add new definitions for use with KRS 154.12-205 to 154.12-208.

Section 12: Amends KRS 154.12-205 to replace “business and industry” with “qualified companies” in the Bluegrass State Skills Corporation’s purpose; removes the secretary of the Cabinet for Economic Development’s requirement to hire an executive director and establish his salary; and removes the requirement of the executive director to be the chief administrative and operational officer of the corporation. The amendment adds new language that Cabinet for Economic Development shall provide staff and support services to the Bluegrass State Skills Corporation.

Section 13: Amends KRS 154.12-206 to replace “business and industry” with “approved companies” in the Bluegrass State Skills Corporation’s powers of whom it can provide a grant-in-aid.

Section 14: Amends KRS 154.12-207 to add: the same change as Section 13; the authority for the Bluegrass State Skills Corporation to award the skills training investment credit under KRS 154.12-204 to 154.12-208; and the application process for the grant-in-aid and skills training investment credit. The amendment also revises the criteria for approving applications; provides the Bluegrass State Skills Corporation the authority to designate the qualified company as an approved company and approve the maximum amount of grants-in-aid and skills training investment credits the approved company is eligible to receive. It sets a cap for the skills training investment credit as \$1,000,000 for fiscal years ending 1999 and 2000 and \$2,500,000 for every fiscal year after. It requires any unallocated credits at the end of the fiscal year to lapse; the approved company to complete all programs within one year and certify to the Bluegrass State Skills Corporation; and the Bluegrass State Skills Corporation to disburse the grant funds or notify the approved company of the final authorized credit.

Section 15: Amends KRS 154.12-208 to remove the requirement that the Bluegrass State Skills Corporation submit a complete and detailed annual report of its activities to the Governor and the Legislative Research Commission. The amendment adds new language that requires the Bluegrass State Skills Corporation to prepare the annual report and make it available on the Cabinet for Economic Development’s website.

Section 16: Amends KRS 154.12-278 to remove the requirement that the Office of Entrepreneurship report annually to the Governor and the Legislative Research Commission. The amendment adds new language that requires the Office of Entrepreneurship to prepare an annual report and make it available on the Cabinet for Economic Development’s website.

Section 17: Amends KRS 154.12-310 to extend the number of affiliate centers that the organization of the ICC’s shall include from six to twelve and deletes the requirement to include a number of satellite offices.

Section 18: Amends KRS 154.12-2035 to remove the requirement that the Cabinet for Economic Development submit a single annual report on the programs listed in subsection (3)(b) to the Governor and the Legislative Research Commission. The amendment adds new language that requires the Cabinet for Economic Development to prepare an annual report and make it available on the Cabinet for Economic Development’s website. It removes the reporting requirements of the Cabinet for Economic Development for the Kentucky Environmental

Stewardship Act, small business investment credit, the Tourism Development Act, and the film production industry incentives and adds reporting on the Kentucky small business tax credit.

Section 19: Amends KRS 154.20-033 to add the Small Business Tax Credit Program to the list of subchapters in which the Kentucky Economic Development Finance Authority has the powers to carry out and effectuate the purposes and provisions.

Section 20: Amends KRS 154.20-150 to remove the requirement that the Kentucky Economic Development Finance Authority submit an overview report to the Governor and the Legislative Research Commission. The amendment adds new language that requires the Kentucky Economic Development Finance Authority to prepare an annual report and make it available on the Cabinet for Economic Development's website.

Section 21: Amends KRS 154.20-170 to make a conforming change with the repeal of the state strategic plan for economic development by Section 37 of this Act.

Section 22: Amends KRS 154.20-230 to replace department of Commercialization and Innovation with the Office of Entrepreneurship in the definition of "qualified activity".

Section 23: Amends KRS 154-20-234 to remove the requirement that the investment be exchanged for consideration in the form of an equity interest in the qualified small business and to provide the Kentucky Economic Development Finance Authority the power to establish additional requirements and guidelines for the efficient implementation and administration of the Kentucky Angel Investment Act and to carry out its purpose.

Section 24: Amends KRS 154.20-238 to provide the qualified investor 80 days to make the qualified investment and provide proof to the authority, instead of the original requirement of 60 days to make the qualified investment and 20 days to provide proof. The amendment also reduces the Kentucky Economic Development Finance Authority's reporting requirement of all certified qualified small business and qualified investors on their website to just the currently certified qualified small business and qualified investors on their website.

Section 25: Amends KRS 154.27-050 to remove the requirement that the Kentucky Economic Development Finance Authority and Kentucky Department of Revenue jointly prepare a report for the Governor and the Legislative Research Commission. The amendment adds new language that requires the Kentucky Economic Development Finance Authority and Department of Revenue to jointly prepare an annual report and post it on the Cabinet for Economic Development's website.

Section 26: Amends KRS 154.30-010 revises various definitions.

Section 27: Adds a new section of Subchapter 27 of KRS Chapter 154 to prohibit applications being accepted under KRS 154.27-010 to 154.27-100 after August 1, 2018, but allows outstanding projects with preliminary or final approval to continue under the provisions of the subchapter.

Section 28: Amends KRS 154.30-070 to require a provision in the tax incentive agreement that states, in part, "...failure of the approved company to meet the minimum capital investment established by KRS 154.30-040, 154.30-050, or 154.30-060 on or before the activation date shall result in cancellation of the tax incentive agreement".

Section 29: Amends KRS 154.30-080 to add the provision that states, "The tax incentive agreement shall be canceled and the approved agency shall not be eligible for incentives if the agency fails to meet the minimum capital investment established by KRS 154.30-040, 15.30-050, or 154.30-060 on the activation date."

Section 30: Amends KRS 154.31-010 to revise current definitions and add new definitions to be used for Subchapter 31 of KRS Chapter 154.

Section 31: Amends KRS 154.31-020 to add flight simulation equipment as an allowable purchase to be included in the maximum sales and use tax incentive available to an approved company.

Section 32: Amends KRS 154.31-030 to remove the requirement that the Kentucky Economic Development Finance Authority submit a complete and detailed report to the use of the sales and use tax incentives and preparation of approved companies under this subchapter to the Governor and the Legislative Research Commission. The amendment adds new language that requires the Kentucky Economic Development Finance Authority to prepare an annual report and make it available on the Cabinet for Economic Development's website.

Section 33: Amends KRS 154.32-010 to revise current definitions and add new definitions to be used for Subchapter 32 of KRS Chapter 154.

Section 34: Amends KRS 154.32-020, in the subsection that states the purpose of the subchapter, to replace "regional or national corporate headquarters" with "headquarters operations" and to add industries to the list of industries that the subchapter targets for encouragement of locating or expanding in Kentucky. In the subsection that pertains to the requirements for an approved company to qualify for the incentives, the amendment removes the reference to "the minimum wage target established by the tax incentive agreement" and replaces it with a reference to the wage requirements specified in this statute.

Section 35: Amends KRS 154.60-010 to replace "Division of Small Business Services" with "Office of Entrepreneurship" in the definitions of "qualifying equipment or technology" and "small business".

Section 36: Amends KRS 154.60-020 to replace "Division of Small Business Services" with "Office of Entrepreneurship"; to extend the time the small business has to meet the requirements for eligibility of receiving final approval for a credit, from a six month period to a twenty-four month period immediately preceding the application submission date; and to delete the requirement that the small business apply for the credits within twenty-four months after meeting one of the requirements.

Section 37: Repeals various KRS sections.

FISCAL EXPLANATION:

ITEMS ABOLISHED

HB 557 abolishes:

- The Kentucky Environmental Stewardship Act (KESA)
 - This program and its incentives are established under Subchapter 48 of KRS Chapter 154. The purpose of the program is to promote investment and development of facilities that produce new environmental technologies in the Commonwealth and to induce investment for production of new environmental technologies in order to relieve unemployment by preserving jobs that might otherwise no longer exist or creating new jobs and by preserving and creating sources of tax revenues for the support of public services provided by the Commonwealth. According to the Cabinet for Economic Development's website, there are no active projects under this program. No fiscal impact is expected as a result of abolishment.
- The state strategic plan for economic development
 - This plan was established by Subchapter 10 of KRS Chapter 154. The framework of the plan includes: a mission statement; goals; principles; strategies and objectives; and benchmarks. According to staff from the Cabinet for Economic Development, this report costs over \$100,000 and abolishment would have a positive fiscal impact on their budget.
- The Agricultural Warehousing Sites Cleanup Fund
 - This fund is established in KRS 224.1-020 and provides financial assistance to persons who did not cause or contribute to the contamination on property used for agricultural warehousing activity on or before June 21, 2001 and who propose to undertake a voluntary cleanup of property. This fund is not being used and there is no fiscal impact expected as a result of abolishment.
- Signature Project Loan Support Program
 - This program is established by KRS 154.30-052(2) as an option for signature projects approved with a tax incentive agreement executed prior to January 1, 2008. According to the Cabinet for Economic Development, this program has never been used and the projects that qualify for it have progressed without this program. No fiscal impact is expected as a result of the abolishment.
- The requirement for an executive director position for the Bluegrass State Skills Corporation
 - KRS 154.12-205 establishes the requirement for the executive director position and states the job duties. The executive director shall serve as the chief administrative and operational officer of the Bluegrass State Skills Corporation and shall direct and supervise its administrative affairs and general management subject to the policies, control, and direction of the board of directors. According to staff from the Cabinet for Economic Development, this position is not being used, as the Cabinet for Economic Development staffs the board of directors for the Bluegrass State Skills Corporation and the salary associated with the position has been allocated to other administrative costs.

- The Incentives for Energy Independence Act (IEIA)
 - This program and its incentives are established under Subchapter 27 of KRS Chapter 154. The purpose of the program is to assist the Commonwealth in moving to the forefront of national efforts to achieve energy independence by reducing the Commonwealth's reliance on imported energy resources. HB 557 sunsets this program as of August 1, 2018, but allows outstanding projects with preliminary or final approval to continue. The Cabinet for Economic Development's website shows 7 companies with preliminary approval and 3 companies with final approval.

REPORTING REQUIREMENTS

HB 557 revises the reporting requirements of several economic development programs to remove the requirement that reports be sent to the Legislative Research Commission and Governor and to require reports be made available on their website. According to the Cabinet for Economic Development staff, this change will have a positive fiscal impact on their budget.

Reporting is also added for the Department of Revenue for the Bluegrass State Skills Corporation skills training investment tax credits. This reporting is expected to have a minimal negative impact on the Department of Revenue's expenditures.

KENTUCKY INNOVATION AND COMMERCIALIZATION CENTERS

KRS 154.12-310 establishes the Kentucky Innovation and Commercialization Centers as private-public partnerships, operating as a cohesive statewide infrastructure to support the implementation of key Kentucky Innovation Act initiatives. It also requires six affiliate centers and a number of satellite offices. HB 557 changes that requirement to twelve affiliate centers and no satellite offices. This change is not expected to have a fiscal impact, as the Cabinet for Economic Development does not plan to change the current offices, except to rename the current satellite offices as affiliate centers.

TAX INCREMENT FINANCING

HB 557 amends the criteria for TIF projects. It changes the base year for TIF projects from December 31st of the year of final approval back to December 31st of the year of preliminary approval. It requires the minimum capital investment to be met to implement the activation date and the tax incentive agreement to have a provision stating that failure to meet the minimum capital investment before the activation date will terminate the incentives. Section 3 of HB 557 adds two additional projects to qualify as a local development area in KRS 65.4079. These projects are already included in KRS 65.7043, which states the purpose of KRS 65.7049, 65.7051, and 65.7053 is to provide a framework for cities and counties to establish a development area for these types of projects. However, KRS 65.4079 doesn't include these projects, so HB 557 is amending KRS 65.4079 to include the projects and make the statutes more consistent. This is expected to have a fiscal impact as one TIF project is currently in the approval process and qualifies under KRS 65.7043, but not under KRS 65.7049.

COMBINING ECONOMIC DEVELOPMENT PROGRAMS

Bluegrass State Skills Corporation Programs

HB 557 sunsets the skills training investment credit program and establishes another one with the same name under the grant-in-aid statutes. The revision to the Bluegrass State Skills Corporation program is being made in an effort to combine the grant-in-aid program with the skills training investment credit program. By combining the programs, changes have been made to the definitions, application process, and criteria of the programs. The skills training investment credit has an annual cap that is met each year. The grant-in-aid program has a set amount appropriated for it in the state biennial budget. If the appropriated amount is not used, it does not lapse, but carries forward into the next year. Changing the programs may allow additional entities to qualify for the incentives; however, a fiscal impact is not expected due to the demand for the credit already exceeding the cap and the grant-in-aid program has a set appropriated amount.

Incentives for Energy Independence Act (IEIA), Kentucky Business Investment (KBI), and Kentucky Enterprise Initiative Act (KEIA)

HB 557 ends the IEIA program and revises the KBI and KEIA programs. The revision of the programs is an effort to streamline available incentives by rolling the IEIA program into the two most popular programs, KBI and KEIA. The sunset of IEIA will reduce the tax incentives available, which may have a positive fiscal impact; however, by combining the programs, changes have been made to the criteria of the KBI and KEIA programs. These changes will alter who qualifies for the programs. Data is not available to estimate the fiscal impact, since it is unknown how many entities may apply under the revised program criteria. The incentives in the KBI program are not capped, but the KEIA program's incentives are capped. To the extent that the KEIA incentive cap is not fully utilized every year, allowing more industries to qualify may allow the program to reach that cap. Also allowing more industries to qualify under KBI is expected to have a negative fiscal impact.

KENTUCKY ANGEL TAX CREDIT PROGRAM

HB 557 changes provisions in the Kentucky Angel Investment Act. It combines the separate qualified investor's requirements of 60 days to make the qualified investment and 20 days to provide proof into a flat 80 days to meet both requirements. It removes the requirement to post all companies ever certified for investment on the website and requires the posting of just the currently certified companies, thus removing companies that are no longer certified. It removes the requirement that the investment be exchanged for consideration in the form of an equity interest in the qualified small business. It provides the Kentucky Economic Development Finance Authority the power to establish additional requirements and guidelines for the efficient implementation and administration of the Kentucky Angel Investment Act and to carry out its purpose. The Kentucky Angel Investment Act has an annual cap and demand for the program exceeds the cap. The revisions to the program by HB 557 are not expected to create a fiscal impact.

STATE PROPERTIES AND BUILDINGS COMMISSION REVENUE BONDS

HB 557 adds headquarters and nonretail service technology projects to the lists of projects eligible to be financed by the issuance or sale of State Properties and Buildings Commission

revenue bonds. The amount of revenue bonds available is a set amount appropriated in the biennial budget. The addition of projects by HB 557 is not expected to have a fiscal impact.

DATA SOURCE(S): LRC Staff, Kentucky Cabinet for Economic Development

PREPARER: Cynthia Brown NOTE NUMBER: 169 REVIEW: JAB DATE: 3/19/2018