

1 AN ACT relating to agricultural economic development and declaring an
2 emergency.

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

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO
5 READ AS FOLLOWS:

6 (1) As used in this section:

7 (a) "Agribusiness" has the same meaning as in KRS 154.32-010;

8 (b) "Alternative fuels" has the same meaning as in KRS 154.20-400, except
9 that the alternative fuels shall be generated by an agricultural production
10 facility for the purpose of generating sustainable aviation fuel;

11 (c) "Application" means the documentation submitted for an eligible project
12 that is required for preliminary approval under subsection (6)(c) of this
13 section;

14 (d) "Board" means the agricultural economic development board established
15 in subsection (3) of this section;

16 (e) "Eligible project" means any agricultural economic development proposal,
17 including an agribusiness or alternative fuels project, that:

18 1. a. Develops necessary supply chain infrastructure within the
19 Commonwealth; or

20 b. Has a significant level of capital investment; and

21 2. Demonstrates a positive economic impact to the selected site location,
22 which may be:

23 a. Quantified by the:

24 i. Number of farming operations impacted for each one
25 thousand dollars (\$1,000) of incentives awarded; or

26 ii. Increase in the volume of product or production for each
27 one thousand dollars (\$1,000) of incentives awarded; or

- 1 b. Based on econometric analysis provided by a state-funded
2 university within the Commonwealth;
- 3 (f) "Farming operation" has the same meaning as in KRS 154.60-040;
4 (g) "Fund" means the agricultural economic development fund created in
5 subsection (4) of this section; and
- 6 (h) "Incentives" means either a:
7 1. Direct grant of moneys; or
8 2. Forgivable loan;
9 based upon the eligible project meeting certain economic conditions.
- 10 (2) The purposes of this section are to:
11 (a) Provide incentives for eligible projects;
12 (b) Encourage the location or expansion of agricultural development in the
13 Commonwealth; and
14 (c) Advance the public purposes of:
15 1. Improvement in the quality of life for Kentucky citizens;
16 2. Providing an economic stimulus to bolster in-state production of vital
17 sustainable agricultural products and services; and
18 3. Creation of new sources of tax revenues for the support of public
19 services provided by the Commonwealth.
- 20 (3) (a) The agricultural economic development board is hereby established and
21 shall be composed of five (5) members to include:
22 1. The Commissioner of Agriculture or his or her designee, who shall
23 serve as chair; and
24 2. Four (4) members appointed by the commissioner, with one (1) person
25 representing each of the following four (4) agricultural sectors:
26 a. Livestock;
27 b. Row crops;

1 c. Specialty crops; and

2 d. Local economic development.

3 (b) The members appointed under paragraph (a)2. of this subsection shall:

4 1. Be chosen from a list of three (3) nominees submitted to the
5 commissioner by representatives from each of the respective
6 agricultural sectors;

7 2. Be reimbursed for expenses incurred in the performance of their
8 duties;

9 3. Serve for a term of four (4) years and until a successor is appointed
10 unless removed in accordance with subparagraph 5. of this
11 paragraph;

12 4. Serve for no more than two (2) consecutive terms; and

13 5. Be removed by the board for good cause or if a member misses two (2)
14 consecutive meetings without good cause.

15 (c) Upon the death, resignation, or removal of any member, the vacancy for the
16 unexpired term shall be filled by the board in the same manner as the
17 original appointment.

18 (d) The board shall:

19 1. Be attached to the department for administrative purposes;

20 2. Meet:

21 a. Quarterly;

22 b. At the call of the chair; or

23 c. Upon a call of the majority of the members; and

24 3. Not be subject to reorganization under KRS Chapter 12.

25 (e) A quorum of the board:

26 1. Shall consist of at least three (3) members; and

27 2. Is required for any action to be taken by the board.

1 (f) The duties of the board shall include:

- 2 1. Administering the fund created in subsection (4) of this section;
- 3 2. Working with the department to develop procedures, guidelines, and
- 4 criteria for:
- 5 a. Prioritizing eligible projects; and
- 6 b. Terminating incentives to eligible projects;
- 7 3. Preparing full meeting reports and maintaining all records and
- 8 official actions of the board;
- 9 4. Receiving and reviewing applications from eligible projects;
- 10 5. Prioritizing eligible projects resulting in the maximum agricultural
- 11 impact;
- 12 6. Entering into a memorandum of agreement with an eligible project;
- 13 7. Approving distributions to eligible projects and monitoring progress of
- 14 those projects through the distribution process;
- 15 8. Terminating incentives and recovering previous distributions if the
- 16 terms of the memorandum of agreement are not met; and
- 17 9. Preparing and submitting an annual report to the Interim Joint
- 18 Committee on Appropriations and Revenue beginning no later than
- 19 November 1, 2025, and no later than each November 1 thereafter until
- 20 all moneys have been fully distributed and all memorandums of
- 21 agreement have been completed. The report shall contain cumulative
- 22 and historical information for each application received, including:
- 23 a. Information to identify the eligible project, including the:
- 24 i. Name submitted on the application;
- 25 ii. County within which the eligible project is or will be
- 26 located; and
- 27 iii. Agricultural economic development activity for which the

- 1 eligible project will develop;
- 2 b. Dates, including the date the:
- 3 i. Application was received;
- 4 ii. Application was denied, if appropriate;
- 5 iii. Memorandum of agreement was executed;
- 6 iv. Memorandum of agreement is estimated to be completed;
- 7 and
- 8 v. Memorandum of agreement was completed;
- 9 c. The amount of capital investment that has or will be made by the
- 10 eligible project;
- 11 d. The estimated economic impact to be achieved from the eligible
- 12 project;
- 13 e. A list of all funding sources to be utilized by the eligible project;
- 14 and
- 15 f. The amount of incentive disbursements that have been made to
- 16 the eligible project under this section.
- 17 (4) (a) The agricultural economic development fund is hereby created as a trust
- 18 and agency account within the State Treasury to be administered by the
- 19 department.
- 20 (b) The fund shall consist of moneys received from state appropriations, gifts,
- 21 grants, federal funds, and any returned moneys required under subsection
- 22 (6)(i) of this section.
- 23 (c) Amounts deposited in the fund shall be used as provided in this section.
- 24 (d) Notwithstanding KRS 45.229, fund amounts not expended at the close of a
- 25 fiscal year shall not lapse but shall be carried forward into the next fiscal
- 26 year.
- 27 (e) Up to twenty percent (20%) of moneys appropriated to the fund during a

1 fiscal year may be used for eligible projects to retain or create innovative or
2 high-technology jobs in the agriculture industry that are directly associated
3 with developing more diverse energy sources within the Commonwealth.

4 (5) By working in conjunction and coordination with the Cabinet for Economic
5 Development, the department shall create a program to encourage projects
6 promoting economic development related to agriculture including:

7 (a) Agricultural economic development projects across the Commonwealth;

8 (b) Agribusiness projects; and

9 (c) Alternative fuels projects.

10 (6) (a) The program may provide incentives to eligible projects.

11 (b) An eligible project may submit an application to the board in accordance
12 with subsection (8) of this section.

13 (c) 1. Upon review of the application and any additional information
14 submitted, the board may give preliminary approval to an eligible
15 project and authorize the negotiation and execution of a memorandum
16 of agreement.

17 2. The memorandum of agreement shall:

18 a. Establish the:

19 i. Minimum amount of capital investment to be made; and

20 ii. Target dates for distribution of the incentives during the
21 time between preliminary approval and final approval of
22 the eligible project; and

23 b. Only allow the incentives to be applied to costs incurred after
24 preliminary approval.

25 (d) Upon preliminary approval, the business may:

26 1. Undertake the project in accordance with the memorandum of
27 agreement; and

- 1 2. Begin the investment of capital.
- 2 (e) The eligible project shall submit any documentation required by the board
3 upon request.
- 4 (f) Upon preliminary approval, the board shall:
- 5 1. Post the company's name, location of the agricultural economic
6 development project, and incentives that have been preliminarily
7 approved on the department's website; and
- 8 2. Monitor each eligible project to ensure that incentives are distributed
9 incrementally as the capital investment targets are incrementally
10 achieved according to the memorandum of agreement.
- 11 (g) Applications that are denied, or not otherwise preliminarily approved, shall
12 remain confidential and shall not be considered public records under KRS
13 61.870 to 61.884.
- 14 (h) 1. To obtain final approval, the eligible project shall submit
15 documentation required by the board to confirm that the requirements
16 established by the memorandum of agreement have been met.
17 Documentation shall include information demonstrating that the
18 eligible project has met the minimum capital investment.
- 19 2. Upon review and confirmation of the documentation, the board may
20 authorize the final distribution of incentives and the memorandum of
21 agreement shall be completed.
- 22 (i) The board shall monitor the activities of the eligible project and, based on
23 the documentation provided, confirm that the eligible project is in
24 compliance with the provisions of the memorandum of agreement and,
25 therefore, eligible for the continued distribution of incentives.
- 26 (j) If, at any time during the term of the memorandum of agreement, an
27 eligible project becomes ineligible for incentives, the board shall

1 immediately terminate the distribution of incentives and determine whether
2 previously distributed incentives may be recaptured based on a pro rata
3 basis of the partially completed terms and the actual terms within the
4 memorandum of agreement by the benchmarks established in the
5 memorandum of agreement.

6 (7) (a) The department may establish procedures and standards to be used by the
7 board for the review and approval of eligible projects through the
8 promulgation of administrative regulations in accordance with KRS
9 Chapter 13A.

10 (b) Standards to be used in reviewing and approving an eligible project shall
11 include the:

- 12 1. Creditworthiness of the eligible company;
- 13 2. Proposed capital investment to be made;
- 14 3. Support of the local community; and
- 15 4. Likelihood of the economic success of the agricultural economic
16 development project.

17 (8) The application shall include:

18 (a) The name of the applicant who will have some relation to the agricultural
19 economic development project;

20 (b) A description of the agricultural economic development project, including
21 its location and the total capital investment in the agricultural economic
22 development project;

23 (c) 1. For agricultural economic development projects new to the
24 Commonwealth, certification by the applicant that the project could
25 reasonably and efficiently locate outside of the Commonwealth and,
26 without the incentives offered by the board, the eligible project would
27 likely locate outside the Commonwealth; and

1 2. The identification of at least one (1) viable out-of-state location for the
2 eligible project;

3 (d) For agricultural economic development projects with an existing location in
4 the Commonwealth considering an expansion, certification that the
5 incentives are necessary for the expansion to occur;

6 (e) A letter of support from a local governmental entity in the city or county
7 where the agricultural economic development project will be located; and

8 (f) Any other information the board may require.

9 (9) An eligible project receiving any distribution from the fund shall not also be
10 eligible to receive other incentives or tax incentives under KRS Chapter 154.

11 ➔Section 2. Whereas it is imperative that productive farm land in the
12 Commonwealth be preserved and increased and new infrastructure improvements be
13 made, an emergency is declared to exist, and this Act takes effect upon its passage and
14 approval by the Governor or upon its otherwise becoming a law.