

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, and also
9 includes alternative fuels generated by an agricultural production facility
10 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 project or
17 proposal, including an agribusiness or alternative fuels project, that:

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

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

21 3. 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;
8 2. Forgivable loan;
9 3. Low-interest revolving loan, of which no more than fifty percent
10 (50%) of the principal of the loan is forgiven within the memorandum
11 of agreement required under subsection (6)(c) of this section; or
12 4. Any combination of the incentives in subparagraphs 1. to 3. of this
13 paragraph in conjunction with another lawfully authorized incentive
14 award scheme;
15 based upon the eligible project meeting certain economic conditions.
- 16 (2) The purposes of this section are to:
17 (a) Provide incentives for eligible projects;
18 (b) Encourage the location or expansion of agricultural development in the
19 Commonwealth; and
20 (c) Advance the public purposes of:
21 1. Improvement in the quality of life for Kentucky citizens;
22 2. Providing an economic stimulus to bolster in-state production of vital
23 sustainable agricultural products and services; and
24 3. Creation of new sources of tax revenues for the support of public
25 services provided by the Commonwealth.
- 26 (3) (a) The agricultural economic development board is hereby established and
27 shall be composed of five (5) members to include:

- 1 1. The Commissioner of Agriculture or his or her designee, who shall
2 serve as chair; and
- 3 2. Four (4) members appointed by the Commissioner, with one (1)
4 person representing each of the following four (4) agricultural
5 sectors:
 - 6 a. Livestock;
 - 7 b. Row crops;
 - 8 c. Specialty crops; and
 - 9 d. Local economic development.
- 10 (b) The members appointed under paragraph (a)2. of this subsection shall:
 - 11 1. Be chosen from a list of three (3) nominees submitted to the
12 Commissioner by representatives from each of the respective
13 agricultural sectors;
 - 14 2. Be reimbursed for expenses incurred in the performance of their
15 duties;
 - 16 3. Serve for a term of four (4) years and until a successor is appointed
17 unless removed in accordance with subparagraph 5. of this
18 paragraph;
 - 19 4. Serve for no more than two (2) consecutive terms; and
 - 20 5. Be removed by the Commissioner for good cause or if a member
21 misses two (2) consecutive meetings without good cause.
- 22 (c) Upon the death, resignation, or removal of any member, the vacancy for the
23 unexpired term shall be filled by the Commissioner in the same manner as
24 the original appointment.
- 25 (d) The board shall:
 - 26 1. Be attached to the department for administrative purposes;
 - 27 2. Meet;

- 1 a. Quarterly;
- 2 b. At the call of the chair; or
- 3 c. Upon a call of the majority of the members; and
- 4 3. Not be subject to reorganization under KRS Chapter 12.

5 (e) A quorum of the board:

- 6 1. Shall consist of at least three (3) members; and
- 7 2. Is required for any action to be taken by the board.

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

- 9 1. Administering the fund created in subsection (4) of this section;
- 10 2. Working with the department to develop procedures, guidelines, and
11 criteria for:
 - 12 a. Prioritizing eligible projects;
 - 13 b. Determining project awards; and
 - 14 c. Terminating incentives to eligible projects;
- 15 3. Preparing full meeting reports and maintaining all records and
16 official actions of the board;
- 17 4. Receiving and reviewing applications from eligible projects;
- 18 5. Prioritizing eligible projects resulting in the maximum agricultural
19 impact;
- 20 6. Entering into a memorandum of agreement with an eligible project;
- 21 7. Approving distributions to eligible projects and monitoring progress of
22 those projects through the distribution process;
- 23 8. Terminating incentives and recovering previous distributions if the
24 terms of the memorandum of agreement are not met; and
- 25 9. Preparing and submitting an annual report to the Interim Joint
26 Committee on Appropriations and Revenue beginning no later than
27 November 1, 2025, and no later than each November 1 thereafter until

1 all moneys have been fully distributed and all memorandums of
2 agreement have been completed. The report shall contain cumulative
3 and historical information for each application received, including:

4 a. Information to identify the eligible project, including the:

5 i. Name submitted on the application;

6 ii. County within which the eligible project is or will be
7 located; and

8 iii. Agricultural economic development activity for which the
9 eligible project will develop;

10 b. Dates, including the date the:

11 i. Application was received;

12 ii. Application was denied, if appropriate;

13 iii. Memorandum of agreement was executed;

14 iv. Memorandum of agreement is estimated to be completed;
15 and

16 v. Memorandum of agreement was completed;

17 c. The amount of capital investment that has or will be made by the
18 recipient for the eligible project;

19 d. The estimated economic impact to be achieved from the eligible
20 project;

21 e. Whether the incentive is or will be a:

22 i. Direct grant of moneys and the total amount of the grant;

23 ii. Forgivable loan and the total amount of the forgivable
24 loan;

25 iii. Low-interest revolving loan, the total amount of the loan,
26 and the low-interest rate of the loan; or

27 iv. Combination of the incentives in subparts i. to iii. of this

- 1 subdivision;
- 2 f. If the incentive is a low-interest loan, the amount of:
- 3 i. Principal collected from the inception of the loan to the
- 4 report date; and
- 5 ii. Interest collected from the inception of the loan to the
- 6 report date;
- 7 g. A list of all funding sources to be utilized by the eligible project;
- 8 and
- 9 h. The amount of incentive disbursements that have been made to
- 10 the eligible project under this section.
- 11 (4) (a) The agricultural economic development fund is hereby created as a
- 12 revolving account within the State Treasury to be administered by the
- 13 department.
- 14 (b) The fund shall consist of moneys received from repayment of low-interest
- 15 loans awarded as an incentive under this section, state appropriations, gifts,
- 16 grants, federal funds, and any returned moneys required under subsection
- 17 (6)(i) of this section.
- 18 (c) Amounts deposited in the fund shall be used as provided in this section.
- 19 (d) Notwithstanding KRS 45.229, fund amounts not expended at the close of a
- 20 fiscal year shall not lapse but shall be carried forward into the next fiscal
- 21 year.
- 22 (e) All interest earnings of the fund shall become a part of the fund and shall
- 23 not lapse.
- 24 (f) Up to twenty percent (20%) of moneys appropriated to the fund during a
- 25 fiscal year may be used for eligible projects to retain or create innovative or
- 26 high-technology jobs in the agriculture industry that are directly associated
- 27 with developing more diverse energy sources within the Commonwealth.

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

4 1. Agricultural economic development projects across the
5 Commonwealth;

6 2. Agribusiness projects; and

7 3. Alternative fuels projects.

8 (b) The Cabinet for Economic Development shall coordinate with and seek
9 guidance from the Commissioner of Agriculture in considering any projects
10 for economic incentives related to agricultural economic development,
11 agribusiness, or production facilities of alternative fuels, including
12 sustainable aviation fuels.

13 (6) (a) An eligible project may submit an application to the board in accordance
14 with subsection (8) of this section.

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

18 (c) The memorandum of agreement shall:

19 1. Establish the:

20 a. Minimum amount of capital investment to be made;

21 b. Whether the incentive is a:

22 i. Direct grant of moneys and the total amount of the grant;

23 ii. Forgivable loan and the total amount of the forgivable
24 loan;

25 iii. Low-interest revolving loan, the total amount of the loan,
26 and the low-interest rate of the loan; or

27 iv. Combination of the incentives in subparts i. to iii. of this

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subdivision;

c. Target dates for distribution of the incentives during the time between preliminary approval and final approval of the eligible project; and

2. Only allow the incentives to be applied to costs incurred after preliminary approval.

(d) Upon preliminary approval, the business may undertake and begin the project according to the memorandum of agreement.

(e) The eligible project shall submit any documentation required by the board upon request.

(f) Upon preliminary approval, the board shall:

1. Post the company's name, location of the agricultural economic development project, and incentives that have been preliminarily approved on the department's website; and

2. Monitor each eligible project to ensure that incentives are distributed incrementally as the capital investment targets are incrementally achieved according to the memorandum of agreement.

(g) Records relating to applications for incentives from the fund or under KRS Chapter 154, including exchanges of information and offers, that are denied, or are not otherwise awarded an incentive, shall remain confidential, shall not be subject to public inspection, and shall not be considered public records under KRS 61.870 to 61.884.

(h) 1. To obtain final approval, the eligible project shall submit documentation required by the board to confirm that the requirements established by the memorandum of agreement have been met. Documentation shall include information demonstrating that the eligible project has met the minimum capital investment.

1 2. Upon review and confirmation of the documentation, the board may
2 authorize the final distribution of incentives and the memorandum of
3 agreement shall be completed.

4 (i) The board shall monitor the activities of the eligible project and, based on
5 the documentation provided, confirm that the eligible project is in
6 compliance with the provisions of the memorandum of agreement and,
7 therefore, eligible for the continued distribution of incentives.

8 (j) If, at any time during the term of the memorandum of agreement, an
9 eligible project becomes ineligible for incentives, the board shall
10 immediately terminate the distribution of incentives and determine whether
11 previously distributed incentives may be recaptured based on a pro rata
12 basis of the partially completed terms and the actual terms within the
13 memorandum of agreement by the benchmarks established in the
14 memorandum of agreement.

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

19 (b) Standards to be used in reviewing and approving an eligible project shall
20 include but not be limited to the:

21 1. Creditworthiness of the eligible company;

22 2. Proposed capital investment to be made;

23 3. Projected tax receipts;

24 4. Support of the local community; and

25 5. Likelihood of the economic success of the agricultural economic
26 development project.

27 (8) The application shall include:

1 (a) The name of the applicant who will have some relation to the eligible
2 project;

3 (b) A description of the eligible project, including its location and the total
4 capital investment in the eligible project;

5 (c) 1. For eligible projects new to the Commonwealth, certification by the
6 applicant that the project could reasonably and efficiently locate
7 outside of the Commonwealth and, without the incentives offered by
8 the board, the eligible project would likely locate outside the
9 Commonwealth; and

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

12 (d) For eligible projects with an existing location in the Commonwealth
13 considering an expansion, certification that the incentives are necessary for
14 the expansion to occur;

15 (e) A letter of support from a local governmental entity in the city or county
16 where the eligible project will be located; and

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

18 ➔ Section 2. KRS 154.12-213 is amended to read as follows:

19 (1) The cabinet, as it deems necessary and advisable, may:

20 (a){(1)} Consult with agencies of the state, federal, and local government in
21 order to coordinate development programs and plans and to articulate
22 agriculture, industry, and commerce in the light of the needs of particular
23 localities;

24 (b){(2)} Make studies of land utilization so as to determine areas suitable for
25 industrial and commercial development;

26 (c){(3)} Make studies and projections and publish information relating to the
27 economic development of the Commonwealth and make appropriate

- 1 recommendations to the board and the General Assembly;
- 2 ~~(d)(4)~~ Establish and maintain development offices in out-of-state centers of
- 3 industrial and commercial management; and
- 4 ~~(e)(5)~~ Place advertising in appropriate media promoting Kentucky's resources
- 5 and locational advantages for industrial and commercial enterprises.

6 **(2) The cabinet shall coordinate with and seek guidance from the Commissioner of**

7 **Agriculture in considering any projects for economic incentives related to**

8 **agricultural economic development, agribusiness, or production facilities of**

9 **alternative fuels, including sustainable aviation fuels.**

10 ➔Section 3. KRS 248.709 is amended to read as follows:

11 The board's duties shall include but not be limited to:

- 12 (1) Administering the agricultural development fund, except as provided in KRS
- 13 248.717(2);
- 14 (2) Receiving requests and applications for funds and authorizing the distribution of
- 15 funds. The board may receive applications from institutions of public postsecondary
- 16 education for financial and technical assistance in conducting alternative crop
- 17 development research. The board shall assist the applicants in obtaining any
- 18 necessary federal permits that may be required to conduct alternative crop research.
- 19 A recipient institution shall report the status and progress of the alternative crop
- 20 development research to the board, the Interim Joint Committee on Agriculture, and
- 21 the Tobacco Settlement Agreement Fund Oversight Committee. The board shall
- 22 promulgate administrative regulations relating to growing and researching
- 23 alternative crops at the selected postsecondary institution, and shall adopt any
- 24 applicable federal regulations;
- 25 (3) Developing guidelines and criteria for eligibility for and disbursement of funds, the
- 26 types of direct and indirect economic assistance to be awarded, and procedures for
- 27 applying for funds and reviewing applications for assistance;

- 1 (4) Ensuring that each county agricultural development council's plans and county
2 recommendations and applications receive major consideration in decisions on use
3 of a county's funds;
- 4 (5) (a) Completing a comprehensive plan and updating the plan no less than every
5 ten (10) years.
- 6 (b) The comprehensive plan shall propose short-term and long-term goals,
7 strategies, and investments in Kentucky agriculture that will assist farmers in
8 remaining competitive in existing and new enterprises. The comprehensive
9 plan shall identify a diversified mix of enterprises that are profitable to
10 farmers and shall determine the investments necessary to support the viability
11 of those enterprises. The plan shall be reviewed by the General Assembly and
12 the subcommittee created in KRS 248.723. The subcommittee may issue
13 comment on the plan. However, the board may act without General Assembly
14 approval.
- 15 (c) Notwithstanding the provisions of 2000 Ky. Acts ch. 546, immediate funding
16 needs may be addressed and funded before a comprehensive or strategic plan
17 is completed. Proposals from an applicant may be approved by the board if
18 they meet the criteria established in KRS 248.713;
- 19 (6) Preparing a biennial budget request in accordance with KRS Chapter 48;
- 20 (7) Working with other governmental agencies to maximize the financial and economic
21 impact that the programs implemented by the board will have and to maximize
22 receipt of federal and other funds to the agriculture community in the
23 Commonwealth;
- 24 (8) Promulgating administrative regulations relating to carrying out the purposes of
25 KRS 248.701 to 248.727;
- 26 (9) Hiring an executive director to carry out the will of the board and who shall report
27 solely to the Commissioner;

- 1 (10) Ensuring the necessary mechanisms are in place for the committees created by KRS
2 248.715 to function effectively;
- 3 (11) Contracting with other persons or entities if necessary to effectuate the board's
4 purposes and functions;
- 5 (12) Enacting bylaws concerning the conduct of the board's business and other
6 administrative procedures as the board deems necessary;
- 7 (13) Developing criteria to evaluate the success of the board's programs and
8 expenditures to applicants. The criteria shall be simple, easily measured, and easily
9 understood. Criteria should include number of families farming, increases in farm
10 income attributable to state programs, the number of diversified operations, and the
11 number of different types of diversified efforts within a county, including the
12 efforts that have failed;
- 13 (14) Providing reports of each meeting, along with expenditures approved or denied,
14 within thirty (30) days of the meeting, to the Tobacco Settlement Agreement Fund
15 Oversight Committee created by KRS 248.723. These reports shall contain detailed
16 information relating to each expenditure by the board and detailed information on
17 each application for funding a project or initiative by the board and decision by the
18 board regarding each proposal, except information that may violate confidentiality.
19 This information shall be provided by electronic format as prescribed by the
20 Legislative Research Commission;
- 21 (15) Submitting an annual written report to the Governor, the Commissioner of
22 Agriculture, the Tobacco Settlement Agreement Fund Oversight Committee, and
23 the Legislative Research Commission regarding the administrative, financial, and
24 programmatic activities of the board;~~and~~
- 25 (16) Making recommendations to the General Assembly through the Legislative
26 Research Commission on possible adjustments to the funding formula for county
27 allocations and the percent allocated to counties as provided in KRS 248.703; **and**

1 (17) Making, participating in the making, purchasing, or participating in the
2 purchasing of insured mortgage or other types of loans to qualified applicants for
3 the purpose of incentives awarded under Section 1 of this Act.

4 ➔Section 4. Whereas it is imperative that productive farm land in the
5 Commonwealth be preserved and increased and new infrastructure improvements be
6 made, an emergency is declared to exist, and this Act takes effect upon its passage and
7 approval by the Governor or upon its otherwise becoming a law.