

CHAPTER 191

(HB 13)

AN ACT relating to the Kentucky Product Development Initiative and declaring an emergency.

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

➔Section 1. KRS 154.21-015 is amended to read as follows:

As used in KRS 154.21-010 to 154.21-040:

- (1) "Cabinet" means the Cabinet for Economic Development;
- (2) **"County population ranking" means the score of each county determined by the cabinet under Section 3 of this Act;**
- (3) "Eligible grant recipient" means a grant applicant that is a local government or an economic development authority in an economic development district in this Commonwealth that is engaged in an eligible project;
- ~~(4)(3)~~ "Eligible project":
 - (a) Means an economic development project **initiated on a property that meets the availability requirements in subsection (3) of Section 4 of this Act; and**
 - (b) **Requires local matching funds based on the county population ranking**~~[with available matching funds for the project on a dollar for dollar basis that is either:~~
 - ~~(a) initiated on publicly owned property; or~~
 - ~~(b) If the project's eligible use includes property acquisition or a due diligence study, then the property shall come with either a:~~
 - ~~1. Legally binding letter of intent or option for the sale to an eligible grant recipient; or~~
 - ~~2. Sale agreement for the sale to an eligible grant recipient;~~
- ~~(5)(4)~~ "Eligible use":
 - (a) Means the authorized purpose for which an awarded grant may be used depending on the source of funds from the Commonwealth; **and**~~[- "Eligible use"]~~
 - (b) May include **expenditures**~~[but is not limited to expenditure]~~ in any of the following categories or some combination thereof:
 - ~~1.(a)~~ Due diligence study;
 - ~~2.(b)~~ Property acquisition;
 - ~~3.(c)~~ Infrastructure extension or improvement;
 - ~~4.(d)~~ Site preparation work;
 - ~~5.(e)~~ Building construction or renovation; or
 - ~~6.(f)~~ Road improvement;~~[- and]~~
- (6) **"Population density":**
 - (a) **Means the number of persons per square mile of a county;**
 - (b) **Is calculated by dividing the total county population by the square miles in the county;**
 - (c) **Is determined by using the population estimate from the most recent available five (5) year American Community Survey as published by the United States Census Bureau; and**
 - (d) **Is used to rank each county in descending order, with the county having the largest population density receiving a rank of one (1) and the county with the smallest population density receiving a rank of one hundred twenty (120);**

(7)~~(5)~~ "Regional project" means an eligible project that is proposed by eligible grant recipients residing in different counties in this Commonwealth who submit a single grant application as co-applicants; **and**

(8) **"Ten (10) year percentage change in population":**

- (a) **Means the percentage change in population within a county;**
- (b) **Is determined by comparing the population estimate from the most recent available five (5) year American Community Survey as published by the United States Census Bureau to the same survey ten (10) years prior to the most recent available survey; and**
- (c) **Is used to rank each county in descending order, with the county having the largest positive percentage change in population receiving a rank of one (1) and the county with the largest negative percentage change receiving a rank of one hundred twenty (120).**

➔Section 2. KRS 154.21-020 is amended to read as follows:

(1) The Kentucky Product Development Initiative **of 2022** is hereby established under the cabinet. The cabinet shall partner with the Kentucky Association for Economic Development to administer the program. The cabinet's administration of the program includes but is not limited to the following:

- (a) Creating and making available a standardized grant application and regional grant application;
- (b) Adopting a standardized scoring system pursuant to KRS 154.21-040;
- (c) Reviewing the applications and proposals submitted by the proposed grant recipients;
- (d) Verifying the eligibility of the proposed grant recipients;
- (e) Verifying that the proposed grant recipient seeks grant money for an eligible project prior to prioritizing and recommending the eligible grant recipient and eligible project to the cabinet;~~and~~
- (f) Awarding grants to selected eligible grant recipients in two (2) rounds of funding; **and**
- (g) **Compiling and submitting the following information, no later than November 1, 2024, and annually thereafter until the authorized appropriation is spent or returned, for each application approved by the Kentucky Economic Development Finance Authority related to the Kentucky Product Development Initiative of 2022 to the Legislative Research Commission and the Interim Joint Committee on Appropriations and Revenue:**
 - 1. **The name of the applicant, a description of the eligible project, and the location of each proposed project for which an application was received;**
 - 2. **The date the application was approved by the Kentucky Economic Development Authority;**
 - 3. **The amount of funding authorized for each project approved;**
 - 4. **The total amount of funding disbursed for each project approved; and**
 - 5. **The round of funding for which each project received approval.**

(2) Upon receipt of eligible grant recipients and eligible project recommendations and prioritization from the Kentucky Association for Economic Development and the third-party independent site selection consultant, the cabinet shall verify and process the eligible grant recipients and eligible project recommendations with the intent to approve and award grants matching the selected grant recipient's contribution to its eligible project on a dollar-for-dollar basis, under the economic development fund program pursuant to KRS 154.12-100.

(3) (a) Prior to the first round of grant awards, the cabinet shall allocate a percentage of the total funds appropriated to this program by the General Assembly to each county in the Commonwealth. When awarding grants in the first round of funding, the cabinet shall not award grants to an eligible grant recipient or a group of eligible grant recipients in excess of the amount allocated to the county in which it or they are located, except when pooled pursuant to subsection (4) of this section. The allocation shall be made according to the following calculations:

- 1. For all counties except Jefferson County, the percentage of the fund each county is eligible to receive shall be determined by each county's proportion of the state's population based on the most recent federal decennial census;

2. For Jefferson County, the percentage of the fund it shall be eligible to receive shall be determined by the county's proportion of the state's population based on the most recent federal decennial census, which shall be discounted by fifty percent (50%); and
 3. The maximum funding available for an approved development project is two million dollars (\$2,000,000) per county except as permitted by subsection (4) of this section.
- (b) If there are funds available after the first round of grant awards, the cabinet shall initiate a second round of grant awards through the Kentucky Product Development Initiative. Any remaining funds available for program use shall be pooled and available to eligible grant recipients from all counties on a first-come, first-served basis, but each county's eligible allocation shall not exceed two million dollars (\$2,000,000) except as permitted by subsection (4) of this section.
- (4) For selected eligible grant recipients that are involved in a regional project, the cabinet may pool the potential allocation of funds available for each county represented by the eligible grant recipients for the grant amount awarded. For example, if a county that is eligible for up to ten percent (10%) of the program funds based on the calculations in subsection (3) of this section partners with a county that is eligible for five percent (5%) of the program funds based on the calculations in subsection (3) of this section, then the total allocation for the regional project that the cabinet may award is fifteen percent (15%).
 - (5) Grant applicants that have received discretionary mega-development project funding shall be disqualified from participation in the Kentucky Product Development Initiative.

➔SECTION 3. A NEW SECTION OF SUBCHAPTER 21 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Product Development Initiative of 2024 is hereby established under the cabinet. The cabinet shall partner with the Kentucky Association for Economic Development to administer the program. The cabinet's administration of the program includes:*
 - (a) *Creating and making available a standardized grant application and regional grant application;*
 - (b) *Adopting a standardized scoring system pursuant to KRS 154.21-040;*
 - (c) *Reviewing the applications and proposals submitted by the proposed grant recipients;*
 - (d) *Verifying the eligibility of the proposed grant recipients;*
 - (e) *Verifying that the proposed grant recipient seeks grant money for an eligible project prior to prioritizing all eligible projects;*
 - (f) *Determining the county's population ranking under subsection (3) of this section;*
 - (g) *Awarding grants to selected eligible grant recipients in multiple rounds of funding; and*
 - (h) *Compiling and submitting the reports required by subsections (3) and (5) of this section.*
- (2) *Upon receipt of eligible grant recipients and eligible project recommendations and prioritization from the Kentucky Association for Economic Development and the third-party independent site selection consultant, the cabinet shall verify and process the eligible grant recipients and eligible project recommendations with the intent to approve and award grants under the economic development fund program pursuant to KRS 154.12-100 and based on the following criteria:*
 - (a) *Consideration of whether the eligible grant recipient had received a grant award from the Kentucky Product Development Initiative of 2022 under Section 2 of this Act; and*
 - (b) *The matching funds for the selected grant recipient's contribution to its eligible project based on the county population ranking determined under subsection (3) of this section.*
- (3) (a) *On or before June 1, 2024, and no later than June 1 every two (2) years thereafter, the cabinet shall determine a county population ranking for each county by adding the following two (2) factors:*
 1. *The population density ranking; and*
 2. *The ten (10) year percentage change in population ranking.*
- (b) *The required local match for each county shall be as follows:*

1. *Eligible projects in counties where the county population ranking is greater than or equal to one hundred ninety-three (193) shall provide a minimum amount of local matching funds equal to ten percent (10%) of the project cost;*
 2. *Eligible project in counties where the county population ranking is less than one hundred ninety-three (193) but greater than or equal to one hundred forty-five (145) shall provide a minimum amount of local matching funds equal to twelve and one-half percent (12.5%) of the project cost;*
 3. *Eligible project in counties where the county population ranking is less than one hundred forty-five (145) but greater than or equal to ninety-seven (97) shall provide a minimum amount of local matching funds equal to fifteen percent (15%) of the project cost;*
 4. *Eligible project in counties where the county population ranking is less than ninety-seven (97) but greater than or equal to forty-nine (49) shall provide a minimum amount of local matching funds equal to seventeen and one-half percent (17.5%) of the project cost;*
 5. *Eligible project in counties where the county population ranking is less than forty-nine (49) shall provide a minimum amount of local matching funds equal to twenty percent (20%) of the project cost; and*
 6. *For eligible projects requesting due diligence as an eligible use, the due diligence must be completed prior to acquisition of the site. If the due diligence result leads to the decision to not purchase the site, then the cabinet may expend up to two hundred thousand dollars (\$200,000) with no local matching funds required. If the amount to be reimbursed by the cabinet exceeds two hundred thousand dollars (\$200,000), the cabinet shall report to the Interim Joint Committee on Appropriations and Revenue, or the Senate Standing Committee on Appropriations and Revenue and the House Standing Committee on Appropriations and Revenue, within five (5) days of the disbursement. The report shall include the name and county location of the eligible project approved, the amount of the grant awarded, the amount of the funding disbursed for due diligence and the extenuating circumstances related to the due diligence study.*
- (c) *On or before July 1, 2024, and no later than July 1 every two (2) years thereafter, the cabinet shall report to the Legislative Research Commission and the Interim Joint Committee on Appropriation and Revenue the following information for each county:*
1. *The county name;*
 2. *The population density ranking for that county;*
 3. *The ten (10) year percentage change in population ranking for that county; and*
 4. *The county population ranking for that county.*
- (d) *When awarding grants in this initiative, the cabinet shall not award grants to:*
1. *An eligible grant recipient or a group of eligible grant recipients in excess of the amount allocated to the county in which the county is located, except when pooled pursuant to subsection (4) of this section; or*
 2. *An eligible grant recipient that received a grant award from the Kentucky Product Development Initiative of 2022 prior to all other eligible grant recipients receiving a grant award from the Kentucky Product Development Initiative of 2024 if the eligible project scores are equal to or above the score of an eligible project from an eligible grant recipient who received a grant award from the Kentucky Product Development Initiative of 2022 under KRS 154.21-040, and in the case where the scores are equal, discretion by the Kentucky Association for Economic Development and the cabinet shall be used.*
- (e) *The maximum funding available for an approved development project is two million dollars (\$2,000,000) per county, except as permitted by subsection (4) of this section.*
- (f) *If there are funds available after the first round of grant awards of the Kentucky Product Development Initiative of 2024, the cabinet shall initiate additional rounds of grant awards.*

- (4) (a) *For selected eligible grant recipients that are involved in a regional project, the cabinet may pool the potential allocation of funds available for each county represented by the eligible grant recipients for the grant amount awarded.*
- (b) *A county that is an eligible grant recipient involved in a regional project shall provide that county's local matching funds based on the county population ranking determined under subsection (3) of this section and each county's local matching funds may be pooled as described in paragraph (a) of this subsection.*
- (5) *Beginning no later than November 1, 2024, and annually thereafter until the authorized appropriation is spent or returned, the cabinet shall compile and submit a report for each application approved by the Kentucky Economic Development Finance Authority for the Kentucky Product Development Initiative of 2024. The report shall be electronically delivered to the Legislative Research Commission and the Interim Joint Committee on Appropriations and Revenue and contain the following information:*
- (a) *The name of the applicant, a description of the eligible project, and the location of each proposed project for which an application was approved;*
- (b) *The date the application was approved by the Kentucky Economic Development Finance Authority;*
- (c) *The amount of funding authorized for each project approved;*
- (d) *The total amount of funding disbursed for each project approved; and*
- (e) *The round of funding for which each project received approval.*
- (6) *The Kentucky Product Development Initiative of 2024 shall begin July 1, 2024.*

➔Section 4. KRS 154.21-035 is amended to read as follows:

- (1) The Kentucky Association for Economic Development shall evaluate each applicant's eligible project according to the criteria described in this section and KRS 154.21-040 for the purposes of compiling a recommendation and score for the eligible project and project site pursuant to KRS 154.21-040.
- (2) The Kentucky Association for Economic Development and the third-party independent site selection consultant shall consider the requirements in the following five (5) categories in the evaluation of proposed projects:
- (a) Property availability as described in subsection (3) of this section;
- (b) Property development ability as described in subsection (4) of this section;
- (c) Zoning availability as described in subsection (5) of this section;
- (d) Transportation accessibility as described in subsection (6) of this section; and
- (e) Utility adequacy as described in subsection (7) of this section.
- (3) The property that the eligible project occupies or is proposed to occupy shall be available. Property shall be deemed available for the purposes of this program:
- (a) If the property is ~~is~~
- ~~(a) —~~publicly owned; or
- (b) If the project's eligible use includes property acquisition or a due diligence study. ***In this situation the application shall include one (1) of the following*** ~~[, then the property shall come with either a]:~~
1. A legally binding letter of intent or option for the sale to an eligible grant recipient; or
 2. ~~An~~~~[Sale]~~ agreement for the sale to an eligible recipient.
- (4) The property that the eligible project occupies or is proposed to occupy shall be developable. Property shall be deemed developable if:
- (a) The acreage intended for development is clearly defined by either:
1. The grant applicant; or

2. An engineering partner during or after a site visit, if the applicant is unable to define the developable acreage; and
- (b) The property is free of impediments to development, or a known impediment can be mitigated by a grant applicant. A property is free of impediments if it:
 1. Is located outside of the one hundred (100) year and five hundred (500) year flood zone;
 2. Is free of recognized environmental conditions;
 3. Is free of wetlands;
 4. Is free of state and federally threatened and endangered species;
 5. Is free of areas of archaeological or historical significance; and
 6. Possesses soils compatible with the grant applicant's intended development.
- (5) The property that the eligible project occupies or is proposed to occupy shall be appropriately zoned for the intended use or shall be able to be rezoned within ninety (90) calendar days. The properties surrounding the grant applicant's project site shall be zoned so they are compatible with the grant applicant's intended development and use of the project site.
- (6) The property that the eligible project occupies or is proposed to occupy shall be directly served by a road or roads that are compatible with the intended use of the property. Additionally, if the property is marketed as rail-served, the property shall be deemed rail-served if:
 - (a) The grant applicant provides documentation from the rail provider that evinces that rail infrastructure exists and the rail provider actually provides rail service; or
 - (b) If the rail service does not exist at the time of the grant application, the grant applicant provides documentation from the rail provider that evinces that the project site will be able to be rail-served within twelve (12) months.
- (7) The property that the eligible project occupies or is proposed to occupy shall have access to adequate utilities and shall be served or able to be served by the following:
 - (a) Electric infrastructure;
 - (b) Natural gas;
 - (c) Water infrastructure and a public water system;
 - (d) Wastewater infrastructure and a public wastewater treatment plant, excluding a septic wastewater treatment system; and
 - (e) Fiber telecommunications infrastructure.

➔Section 5. Whereas it is critical to ensure the continuing economic progress by the Commonwealth through the immediate implementation of this Act related to the Kentucky Product Development Initiative of 2024, an emergency is declared to exist, and this Act takes effect on July 1, 2024.

Signed by Governor April 16, 2024.