

CHAPTER 12**(HB 313)**

AN ACT relating to economic development.

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

➔Section 1. KRS 65.503 is amended to read as follows:

- (1) The West End Opportunity Partnership shall be governed by a board. The board shall initially consist of the following members:
 - (a) One (1) member appointed by the Governor for a term of two (2) years;
 - (b) One (1) member appointed by the mayor of a consolidated local government for a term of two (2) years;
 - (c) One (1) member of the legislative council of the consolidated local government appointed by its members for a term of three (3) years;
 - (d) A representative of the University of Louisville appointed by its board of trustees for a term of three (3) years;
 - (e) A representative of Simmons College of Kentucky appointed by its board of trustees for a term of three (3) years; and
 - (f) 1. The following shall be appointed by the Governor:
 - a. One (1) member from the NAACP of Louisville;
 - b. One (1) member from OneWest in Louisville;
 - c. One (1) member from Louisville Urban League;
 - d. One (1) member from the Federal Reserve Bank in Louisville;
 - e. One (1) member from the Volunteers of America Mid States in Louisville;
 - f. One (1) member from a locally based foundation with assets over one hundred million dollars (\$100,000,000); and
 - g. One (1) member from a bank with local assets greater than one billion dollars (\$1,000,000,000).
 2. The initial appointments of the members described in subparagraph 1. of this paragraph shall be for terms as follows:
 - a. Two (2) members for a term of one (1) year;
 - b. Two (2) members for a term of two (2) years;
 - c. Two (2) members for a term of three (3) years; and
 - d. One (1) member for a term of four (4) years.
- (2) The board shall include in its bylaws a process for appointing one (1) member from each of the nine (9) neighborhoods in the development area as additional members. The process shall:
 - (a) Ensure the nine (9) members are each from a different neighborhood;
 - (b) Require that, at all times, at least one (1) of the nine (9) members representing the neighborhoods shall be between the ages of eighteen (18) and thirty (30) at the time of appointment or reappointment; and
 - (c) Provide that the initial appointment of the members be for terms as follows:
 1. Four (4) members for a term of two (2) years; and
 2. Five (5) members for a term of three (3) years.
- (3) ***If a member appointed under subsection (1) of this section is unable or unwilling to serve on the board, the board may substitute an appointed member by majority vote to serve on the board for the remainder of the***

appointee's term. The board shall identify an entity that is located in or has a history of service to the West End Opportunity Partnership area from which a potential substitute appointee can be selected.

- (4) After expiration of the term limits provided in subsections (1) and (2) of this section, the board shall self-perpetuate. The overall makeup of the board shall remain the same unless an institution ceases to exist or changes corporate form. All successors of the representatives described in subsection (1) of this section shall serve four (4) year terms and all successors of the representatives described in subsection (2) of this section shall serve three (3) year terms. No individual shall serve more than two (2) consecutive terms.
- ~~(5)(4)~~ The head of economic development for the consolidated local government, or his or her designee, and the secretary of the Cabinet for Economic Development, or his or her designee, shall be nonvoting, ex officio members of the West End Opportunity Partnership;
- ~~(6)(5)~~ The membership of the board shall not exceed twenty-one (21) voting members.
- ~~(7)(6)~~ The majority of the board's membership shall reflect the racial majority of the residents living in the development area.
- ~~(8)(7)~~ A chair of the board shall be selected annually from its members and shall have responsibility for board meeting agendas and presiding at board meetings.
- ~~(9)(8)~~ Members of the board shall be entitled only to reimbursement from the West End Opportunity Partnership for actual expenses incurred in the performance of their duties as board members.
- ~~(10)(9)~~ A majority of the entire voting members of the board shall constitute a quorum, and all actions of the board shall be by vote of a majority of its entire voting membership.
- ~~(11)(10)~~ A member of the board shall abstain from action on an official decision in which he or she has or may have a personal or private interest, or if the member is affiliated with any party conducting business with the West End Opportunity Partnership, shall disclose the existence of that personal or private interest or affiliation in writing to the other members of the board on the same day on which the member becomes aware that the interest or affiliation exists or that an official decision may be under consideration by the board. The member which has or may have a personal or private interest or affiliation shall be absent from all meetings and votes in relation to the matter.
- ~~(12)(11)~~ As a prerequisite to service, each appointee to the board and each member of the West End Louisville Advisory Council established in KRS 65.506 shall participate in a board-sanctioned training program on the topics of community and economic development, finance, equity and community engagement, gentrification, and the implications of these concepts.

➔Section 2. KRS 65.505 is amended to read as follows:

- (1) All documentation, records, and release of incremental revenues relating to local tax revenues shall be maintained and determined by the governing body.
- (2) All documentation, records, and release of incremental revenues relating to state tax revenues shall be maintained and determined by the Department of Revenue.
- (3) Upon notice from the West End Opportunity Partnership, the governing body obligated under a local participation agreement and the Department of Revenue shall release to the West End Opportunity Partnership the incremental revenues due.
- (4) (a) The governing body and the Department of Revenue shall have no obligation to refund or otherwise return any of the incremental revenues to the taxpayer from whom the incremental revenues arose or are attributable.
- (b) No additional incremental revenues resulting from audit, amended returns, or other activity for any period shall be transferred after the initial release to the West End Opportunity Partnership for that period.
- (5) If the West End Opportunity Partnership issues bonds for development within the development area and incremental revenues have been pledged for that development, the West End Opportunity Partnership shall maintain a separate account to account for the:
- (a) Bond proceeds received;
- (b) Incremental revenues received; and

- (c) Payment of debt charges of the bond.
- (6) The West End Opportunity Partnership shall provide a biennial report to the Interim Joint Committee on Appropriations and Revenue on or before August 1, 2023, and on or before August 1 of each odd-numbered year thereafter. The report shall contain the following information:
 - (a) The amounts of moneys received by private sector investors, the consolidated local government, and the Commonwealth, including the party that made the payment;
 - (b) The annual financial statements of the West End Opportunity Partnership, including the current balances of all funds and accounts of the West End Opportunity Partnership;
 - (c) The total amount of state tax revenues and local tax revenues received by the West End Opportunity Partnership for the preceding biennial period categorized by each type of tax;
 - (d) The operating expenditures incurred by the West End Opportunity Partnership, including management fees, investment fees, legal fees, or administrative fees incurred;
 - (e) A list of the projects supported by investments from the West End Opportunity Partnership in the preceding year and a description of the investment amount contributed by the West End Opportunity Partnership for each project;
 - (f) The amount of bonds issued or other borrowed moneys received by the West End Opportunity Partnership;
 - (g) Any personal or private interests or affiliated board members as described in KRS 65.503(11)~~(10)~~; and
 - (h) Upon request from the General Assembly, copies of the West End Opportunity Partnership's bylaws and any contracts or agreements in which the West End Opportunity Partnership is a party.

➔Section 3. 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) "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;
- (3) "Eligible project" means an economic development project *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*~~on property with a letter of intent or sale agreement for the sale to an eligible grant recipient with available matching funds for the project on a dollar for dollar basis and that satisfies the evaluation criteria in KRS 154.21-035~~;
- (4) "Eligible use" means the authorized purpose for which an awarded grant may be used depending on the source of funds from the Commonwealth. "Eligible use" may include but is not limited to expenditure in any of the following categories or some combination thereof:
 - (a) Due diligence study;
 - (b) Property acquisition;
 - (c) Infrastructure extension or improvement;
 - (d) Site preparation work;
 - (e) *Building construction or renovation*; or
 - (f)~~(e)~~ Road improvement; and

- (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.

➔Section 4. KRS 154.21-020 is amended to read as follows:

- (1) The Kentucky Product Development Initiative 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*~~Developing~~ 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.
- (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~~, up to ten percent (10%) of the total funds appropriated to the Kentucky Product Development Initiative by the General Assembly~~.
- (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*~~; the percentage of the state population that the county's total population makes up, then multiplied by two (2); and~~
 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*~~is the percentage of the state population that Jefferson County's total population makes up~~
 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*~~[located in a county that participates in the Rural Project Development Initiative]~~ shall be disqualified from participation in the Kentucky Product Development Initiative.

➔Section 5. 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 if the property is:
 - (a) Publicly owned; 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 recipient*** ~~Property with a letter of intent or sale agreement for the sale to an eligible grant 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.

Signed by Governor March 17, 2023.