

1 AN ACT relating to tax incentives.

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

3 ➔Section 1. KRS 154.32-040 is amended to read as follows:

4 The authority, upon final approval of a company, may enter into a tax incentive  
5 agreement with the approved company. The terms and conditions of the tax incentive  
6 agreement shall be negotiated between the authority and the approved company. The  
7 terms of the tax incentive agreement shall include but not be limited to the following  
8 provisions:

- 9 (1) The maximum approved costs that may be recovered over the term of the tax  
10 incentive agreement and the annual maximum for approved costs;
- 11 (2) That the approved company shall provide the authority with all documentation  
12 requested in a manner acceptable to the authority;
- 13 (3) Identification of the contribution of the local government to the economic  
14 development project, if any;
- 15 (4) The activation date, which shall be within two (2) years of final approval;
- 16 (5) That the approved company shall implement the activation date by notifying the  
17 authority;
- 18 (6) That the approved company shall provide documentation satisfactory to the  
19 authority within the timeframes required by the authority that it has met the  
20 minimum employment, minimum investment, and minimum wage requirements,  
21 including employee benefits, established by KRS 154.32-020;
- 22 (7) That failure of the approved company to meet any of the minimum job, minimum  
23 investment, or minimum wage requirements, including employee benefits,  
24 established by KRS 154.32-020, on the activation date shall result in **termination**  
25 ~~cancelation~~ of the tax incentive agreement;
- 26 (8) The term of the agreement, which shall not exceed fifteen (15) years for an  
27 economic development project located in an enhanced incentive county, or ten (10)

- 1           years for an economic development project located in another county;
- 2   (9) That, if confirmed approved costs are less than the maximum approved costs  
3       included in the tax incentive agreement, the confirmed approved costs shall become  
4       the maximum amount that may be recovered by the approved company;
- 5   (10) If the economic development project is a leased project, that future rent payments  
6       that are included in eligible costs shall be included as confirmed approved costs  
7       upon submission of a valid lease agreement executed after preliminary approval;
- 8   (11) Establishment of a job target and minimum wage target, including employee  
9       benefits;
- 10   (12) A requirement that the job target and minimum wage target, including employee  
11       benefits, be measured:
- 12       (a) On the activation date, against the actual new full-time jobs created and the  
13           average wages, including employee benefits, paid for those jobs; and
- 14       (b) Annually during each year of the agreement, against the annual average of the  
15           new full-time jobs and the average wages, ***including employee benefits***, paid  
16           for those jobs~~[-including employee benefits]~~;
- 17   (13) A provision requiring the approved company to notify the authority immediately if  
18       the approved company sells or otherwise transfers or disposes of the land on which  
19       an economic development project is located, if a lease relating to the economic  
20       development project is terminated or lapses, or if the approved company ceases or  
21       fundamentally alters operations at the economic development project;
- 22   (14) A provision detailing the reductions in incentives that will occur pursuant to KRS  
23       154.32-030(4) if an approved company fails to meet its job target or minimum wage  
24       target, including employee benefits, ***paid for those jobs***;
- 25   (15) If the tax incentive agreement includes an advance disbursement, incorporation of  
26       the provisions of the loan agreement or inclusion of the loan agreement as an  
27       attachment to the tax incentive agreement;

- 1 (16) That the agreement may be assigned by the approved company upon the adoption of  
2 a resolution by the authority to that effect;
- 3 (17) That the approved company shall make available to the authority all of its records  
4 pertaining to the economic development project, including but not limited to payroll  
5 records, records relating to eligible costs, and any other records pertaining to the  
6 economic development project that the authority may require;
- 7 (18) That the authority may share information with the department for the purposes of  
8 monitoring and enforcing the terms of the tax incentive agreement;
- 9 (19) That, if an approved company fails to comply with its obligations under the tax  
10 incentive agreement other than the jobs target or minimum wage target, the  
11 authority may take any or all of the following actions:
- 12 (a) Suspend the incentives available to the approved company;
- 13 (b) Terminate the incentives available to the approved company; or
- 14 (c) Pursue any other remedy set forth in the tax incentive agreement or to which it  
15 may be entitled by law; and
- 16 (20) Any other provisions not inconsistent with this subchapter and determined to be  
17 necessary or appropriate by the parties to the tax incentive agreement.