

154.27-020 Short title -- Legislative findings -- Purpose of subchapter-- Incentives.

- (1) This subchapter shall be known as the "Incentives for Energy Independence Act."
- (2) The General Assembly hereby finds and declares that it is in the best interest of the Commonwealth to induce the location of innovative energy-related businesses in the Commonwealth in order to advance the public purposes of achieving energy independence, creating new jobs and new investment, and creating new sources of tax revenues that but for the inducements to be offered by the authority to approved companies would not exist.
- (3) The purpose of this subchapter is to assist the Commonwealth in moving to the forefront of national efforts to achieve energy independence by reducing the Commonwealth's reliance on imported energy resources. The provisions of this subchapter seek to accomplish this purpose by providing incentives for companies that, in a carbon capture ready manner, construct, retrofit, or upgrade facilities for the purpose of:
 - (a) Increasing the production and sale of alternative transportation fuels;
 - (b) Increasing the production and sale of synthetic natural gas, chemicals, chemical feedstocks, or liquid fuels, from coal, biomass resources, or waste coal through a gasification process;
 - (c) Increasing the production and sale of energy-efficient alternative fuels; or
 - (d) Generating electricity for sale through alternative methods such as solar power, wind power, biomass resources, landfill methane gas, hydropower, or other similar renewable resources.
- (4) To qualify for the incentives provided in this subchapter, the following requirements shall be met:
 - (a) For an alternative fuel facility or gasification facility that uses oil shale, tar sands, or coal as the primary feedstock, the minimum capital investment shall be one hundred million dollars (\$100,000,000);
 - (b) For an alternative fuel facility or gasification facility that uses biomass resources as the primary feedstock, the minimum capital investment shall be twenty-five million dollars (\$25,000,000);
 - (c) For an energy-efficient alternative fuel facility, the minimum capital investment shall be twenty-five million dollars (\$25,000,000);
 - (d) For an alternative fuel facility located in Kentucky that is newly constructed on or after August 1, 2010, or an existing facility located in Kentucky that is retrofitted or upgraded on or after August 1, 2010, and that, after the new construction, retrofit, or upgrade, primarily produces for sale alternative transportation fuels using natural gas or natural gas liquids as the primary feedstock, the minimum capital investment shall be one million dollars (\$1,000,000); provided that the authority may approve a maximum of five (5) projects that meet the requirements of this paragraph; and
 - (e) For a renewable energy facility, the minimum capital investment shall be one million dollars (\$1,000,000).

- (5) The incentives under the Incentives for Energy Independence Act are as follows:
- (a) An advance disbursement of post-construction incentives for which an approved company has been approved, the maximum amount of which is based upon the estimated labor component of the total capital investment of the eligible project, and the utilization of Kentucky residents during the construction period as set forth in KRS 154.27-090;
 - (b) Sales and use tax incentives of up to one hundred percent (100%) of the taxes paid on purchases of tangible personal property made to construct, retrofit, or upgrade an eligible project, as set forth in KRS 139.517 and 154.27-070;
 - (c) Up to eighty percent (80%) of the severance taxes paid on the purchase or severance of:
 - 1. Coal that is subject to the tax imposed under KRS 143.020 and that is specifically used by an alternative fuel facility, energy-efficient alternative fuel facility, or a gasification facility as feedstock for an eligible project, as set forth in KRS 143.024 and 154.27-060; or
 - 2. Natural gas or natural gas liquids that are subject to the tax imposed under KRS 143A.020 and that are specifically used in an alternative fuel facility described in subsection (4)(d) of this section as feedstock for an eligible project, as set forth in KRS 143A.025 and 154.27-060;
 - (d) Up to one hundred percent (100%) of the Kentucky income tax imposed under KRS 141.040 or 141.020, and the limited liability entity tax imposed under KRS 141.0401 on the income, Kentucky gross profits, or Kentucky gross receipts of the approved company generated by or arising from the eligible project, as set forth in KRS 141.421 and 154.27-080; and
 - (e) Authorization for the approved company to impose a wage assessment of up to four percent (4%) of the gross wages of each employee subject to the Kentucky income tax:
 - 1. Whose job was created as a result of the eligible project;
 - 2. Who is employed by the approved company to work at the facility; and
 - 3. Who is on the payroll of the approved company or an affiliate of the approved company;as set forth in KRS 154.27-080.
- (6) The maximum recovery from all incentives approved under this subchapter for an eligible project shall not exceed fifty percent (50%) of the capital investment in the eligible project.
- (7) The incentives available to an approved company shall be negotiated with and approved by the authority.
- (8) If a newly constructed facility that qualifies for incentives under this subchapter is later upgraded or retrofitted in a manner that would qualify for incentives under this subchapter, the retrofit or upgrade shall be a separate eligible project, and the minimum investment requirements and carbon capture readiness requirements, if

required, shall be met for the retrofit or upgrade to qualify for incentives under this subchapter.

- (9) The General Assembly finds that the authorities granted by this subchapter are proper governmental and public purposes for which public moneys may be expended.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 60, sec. 2, effective July 15, 2010; and ch. 139, sec 3, effective July 15, 2010. -- Amended 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 101, effective June 26, 2009. -- Created 2007 (2d Extra. Sess.) Ky. Acts ch. 1, sec. 2, effective August 30, 2007.

Legislative Research Commission Note (7/15/2010). 2010 Ky. Acts ch. 139, sec. 3, amended KRS 154.27-020 to add a new paragraph (d) to subsection (4) of the statute. This statute was also amended in 2010 Ky. Acts ch. 60, sec. 2, and that amendment added a new paragraph (c) to subsection (4). In codification, the lettering of the former paragraph (4)(c) has been changed to (4)(e) by the Reviser of Statutes under the authority of KRS 7.136 (1).

Legislative Research Commission Note (7/15/2010). This section was amended by 2010 Ky. Acts chs. 60 and 139, which do not appear to be in conflict and have been codified together.

Legislative Research Commission Note (8/30/2007). A manifest clerical or typographical error in subsection (5)(a) of this section has been corrected by the Reviser of Statutes during codification pursuant to the authority of KRS 7.136.