

42.4588 Local Government Economic Development Program -- Use of grants -- Procedures.

- (1)
 - (a) A Local Government Economic Development Program is established to consist of a system of grants to counties to attract new industry. Grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be administered by the Department for Local Government. Grants from funds provided for in KRS 42.4592(1)(c) shall be administered by the Kentucky Economic Development Finance Authority.
 - (b) All references in this section to the commissioner of the Department for Local Government relate only to the grants or industrial development projects funded through KRS 42.4592(1)(a) and (b). All references in this section to the secretary of the Cabinet for Economic Development or the Kentucky Economic Development Finance Authority relate only to grants or industrial development projects funded through KRS 42.4592(1)(c).
- (2) Grants obtained under this program shall be used for:
 - (a) Industrial development projects if an industrial firm has agreed with the local government, to the satisfaction of the Kentucky Economic Development Finance Authority or the Department for Local Government, to develop, in conjunction with the industrial development project, manufacturing, processing, assembling, or other facilities approved by the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government;
 - (b) Industrial development projects if the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government finds that the project is necessary for the creation of an environment for new industry in order to obtain an agreement from an industrial firm to develop manufacturing, processing, assembling, or other facilities approved by the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government; and
 - (c) Debt service for industrial development projects, as defined in subsection (2)(a) and (b) of this section, or for facilities approved by the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government under the provisions of subsection (3) of this section.
- (3) The secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government may approve facilities, other than manufacturing, processing, or assembling facilities, for industrial development projects when the secretary or the commissioner finds that the facility will add value to a product. Value-added facilities shall include data processing, telecommunication, and distribution facilities but shall not include retail facilities or coal mining, coal processing, or coal transportation facilities. The secretary or the commissioner may also approve privately owned facilities for transient lodging and recreation where the secretary or commissioner finds that the cost of the recreation component of the facility is equal to, or greater than, the cost of the lodging component of the facility. The criteria for approval of applications for grants

provided for in subsection (10)(a), (b), and (c) of this section shall be paramount in the case of lodging and recreational facilities.

- (4) Applications for grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund. Applications for grants from funds provided for in KRS 42.4592(1)(c) shall be made by the legislative bodies of two (2) or more counties with accounts in the local government economic development fund. No grant shall be awarded without application for a grant.
- (5) A grant may be awarded for an industrial development project located in a county that does not have an account in the local government economic development fund, if the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government finds that the industrial development project may be reasonably expected to create jobs for residents of the local unit or units of government applying for the grant. Application for the grant shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund.
- (6) An industrial development project may include legal, accounting, engineering, and marketing expenses for a regional industrial park, in addition to the activities set forth in subsection (11)(a) of this section.
- (7) Grants awarded from funds provided for in KRS 42.4592(1)(a) and (b) shall not exceed the total balance of the accounts of the applicant counties at the time of the award of the grant.
- (8) Grants awarded under the provisions of subsection (2)(c) of this section may be for a period not to exceed the current biennium of the Commonwealth and shall be limited to an amount not to exceed the amount estimated to be allocated to the applicant county or counties for the current biennium under the provisions of KRS 42.4592(1)(a) and (b).
- (9) Approval of grant applications shall be by the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government. Award of grants from funds provided for in KRS 42.4592(1)(c) shall be by the Kentucky Economic Development Finance Authority. Award of grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be by the commissioner of the Department for Local Government.
- (10) Criteria for approval of applications and the award of grants to be considered, if applicable, shall include:
 - (a) The number of jobs to be created or preserved, directly or indirectly, by the industrial development project;
 - (b) Payrolls, and the taxes generated, both at the state and local levels, by the industrial development project and taxes generated by the employment created or preserved by the industrial development project;
 - (c) The size, nature, and cost of the industrial development project, including the prospect of the industrial development project providing long-term jobs in

enterprises consistent with the changing economies of the affected local units of government;

- (d) The needs, and degree of needs, of the local units of government which will be affected by the industrial development project;
 - (e) The needs of any industrial firm benefiting from the industrial development project;
 - (f) The amount and kind of assistance, if any, available to an industrial firm from other government agencies through tax exemption or abatement, financing assistance through industrial development bonds, and otherwise, with respect to the industrial development project;
 - (g) The amount of capital made available to the facility by lenders and by the industrial firm; and
 - (h) The economic feasibility of the facility.
- (11) For purposes of this section:
- (a) "Industrial development project" includes the acquisition of any real estate and the construction, acquisition, and installation thereon and with respect thereto of improvements and facilities necessary and useful for the improvement of the real estate for conveyance to or lease to industrial firms to be used for manufacturing, processing, or assembling purposes, including surveys; site tests and inspections; subsurface site work; excavation, removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage; storm water retention; installation of utilities, such as water, sewer, sewage treatment, gas, electricity, communication, and other similar facilities; off-site construction of utility extensions to the boundaries of the real estate; construction and installation on the real estate of the industrial firm of buildings, including buildings to be used for worker training and education; rail facilities; roads; sidewalks; curbs; other improvements to the real estate necessary to its manufacturing, processing, assembling, or other approved use by industrial entities; workforce training; and job development incentive grants;
 - (b) "Industrial firm" means any corporation, limited liability company, limited liability partnership, partnership, person, or other legal entity, whether domestic or foreign, which will itself or through its subsidiaries and affiliates construct and develop a manufacturing, processing, assembling, or other approved facility on the site of an industrial development project financed pursuant to this section;
 - (c) "Job development incentive grant" means an award to a county of funds from its account administered by the Department for Local Government pursuant to KRS 42.4592(1)(a) and (b) for the use by the county to encourage job development for those industrial development projects located in that county which create at least twenty-five (25) new full-time jobs held by Kentucky residents who receive a minimum wage of at least one hundred thirty percent (130%) of the federal minimum wage. Each job development incentive grant

shall be limited to five thousand dollars (\$5,000) for each job created which fulfills the requirements of this subsection. The industrial firm receiving the job development incentive grant shall pay its employees at the project site an average wage equal to or greater than one hundred fifty percent (150%) of the federal minimum wage and shall invest at least ten thousand dollars (\$10,000) per new job created. After a fiscal court has received authorization for the job development grant by the Department for Local Government, the county, the industrial firm, and the Department for Local Government shall enter into an agreement committing the grant funds to be disbursed at such time as the industrial firm certifies the authenticity of the following information to be delivered to the county:

1. The industrial firm has made at least the minimum investment required;
2. At least twenty-five (25) new full-time Kentucky jobs have been created at the project site by the industrial firm;
3. No employee at the project site is paid a salary by the industrial firm which is less than one hundred thirty percent (130%) of the federal minimum wage;
4. The employees at the project site are paid an average wage by the industrial firm at least equal to one hundred fifty percent (150%) of the federal minimum wage;
5. Each employee hired for the project by the industrial firm shall have worked on a full-time basis at the minimum wages described in this section at least twelve (12) full consecutive months at the site prior to any grant funds disbursement; and
6. No job created by the industrial firm after twenty-four (24) months from the date of the first eligible hire at the project site shall be considered for the grant.

If the county is satisfied the information provided is accurate and qualifies the industrial firm for the job development incentive grant as described in the agreement, it shall forward the certified information to the Department for Local Government, which shall make the job development grant disbursement upon sufficient evidence that all terms of the agreement have been met; and

- (d) "Regional industrial park" means an industrial development project authorized for a grant award by the Kentucky Economic Development Finance Authority for a minimum of three (3) counties eligible for grant funds provided for in KRS 42.4592(1)(c), which coalition may include a county as approved under subsection (5) of this section.
- (12) Findings by the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government, provided for in subsections (2)(b), (3), and (5) of this section, shall be made in writing to the affected counties, the Governor, and the Legislative Research Commission.
- (13) By October 1 of each odd-numbered year, the secretary of the Cabinet for Economic Development and the commissioner of the Department for Local Government shall

each provide, in writing, to the Governor and the Legislative Research Commission a listing of all applications for grants received pursuant to this section subsequent to the last report, indicating which applications were approved or disapproved, with the reason for disapproval when the decision was to disapprove, and a listing of all grants awarded, with the amount of the award, the recipient county, and the related industrial development project.

- (14) (a) Projects specifically authorized by appropriations made by the General Assembly in an enacted budget bill, with the funding source identified as funds allocated to individual counties under KRS 42.4592(1)(a) or (b), shall be deemed approved and shall not be subject to the application process established in this section.
- (b) Projects described in paragraph (a) of this subsection shall be subject to a memorandum of agreement between the entity identified in the appropriation and the Department for Local Government. The memorandum of agreement shall address the legal requirements for the disbursement and accounting of funds.
- (c) Within thirty (30) days of the receipt of a written request from an entity designated in the appropriation for funding related to a project described in paragraph (a) of this subsection, the Department for Local Government shall prepare and send a memorandum of agreement to the designated entity for review and signature. Upon receipt of the signed memorandum of agreement from the designated entity, the Department for Local Government shall release the funds for the project for use by the designated entity.
- (d) Funds appropriated for specific projects as described in paragraph (a) of this subsection shall not be expended for any other purpose, provided that the commissioner of the Department for Local Government may, upon written request by a designated entity identifying an extraordinary circumstance or emergency situation, approve the reallocation of funds appropriated for a specific project as described in paragraph (a) of this subsection to the extent necessary to address the extraordinary circumstance or emergency situation. Any approval under this paragraph shall be made in writing, and shall be reported to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue within thirty (30) days of the approval being made.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 117, sec. 25, effective July 15, 2010. -- Amended 2008 Ky. Acts ch. 123, sec. 1, effective July 15, 2008. -- Amended 2007 Ky. Acts ch. 47, sec. 19, effective June 26, 2007. -- Amended 2006 Ky. Acts ch. 210, sec. 2, effective July 12, 2006. -- Amended 2002 Ky. Acts ch. 338, sec. 1, effective July 15, 2002. -- Amended 2001 Ky. Acts ch. 34, sec. 2, effective June 21, 2001. -- Amended 2000 Ky. Acts ch. 300, sec. 1, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 170, sec. 2, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 194, sec. 1, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 18, sec. 2, effective July 15, 1994; and ch. 499, sec. 6, effective July 15, 1994. -- Created 1992 Ky. Acts ch. 107, sec. 6, effective July 1, 1992.

Legislative Research Commission Note (7/15/2008). 2008 Ky. Acts ch. 123, sec. 2 provides that amendments made to this section by that Act "shall apply to projects beginning with those authorized in the 2008-2010 biennial budget."

Legislative Research Commission Note (6/21/2001). A reference to "subsection (9)" in subsection (3) of this statute has been changed in codification to "subsection (10)" under KRS 7.136(1)(e) and (h). In 2000 Ky. Acts ch. 300, sec. 1, the existing subsection (9) was renumbered as subsection (10), but an internal reference to that subsection in the existing language of this statute was overlooked.