

1 AN ACT relating to an economic development taxpayer transplant program.

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

3 ➔SECTION 1. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER
4 154 IS CREATED TO READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "Annual disbursement" means the amount paid to the contracted company*
7 *under the Taxpayer Transplant Program and shall be equal to:*

8 *1. Four percent (4%); or*

9 *2. Five and one-half percent (5.5%)*

10 *of the qualified employee's gross wages earned under the program during*
11 *the annual period in accordance with Section 2 of this Act;*

12 *(b) "Authority" means the Kentucky Economic Development Finance*
13 *Authority established in KRS 154.20-010;*

14 *(c) "Bidding company" means any corporation, limited liability company,*
15 *partnership, limited partnership, sole proprietorship, business trust, or any*
16 *other entity that responds to a request for proposal issued by the authority*
17 *under subsection (3)(a) of this section for a proposed Taxpayer Transplant*
18 *Program;*

19 *(d) "Contracted company" means a bidding company that:*

20 *1. Invests at least ten million dollars (\$10,000,000) in the Taxpayer*
21 *Transplant Program for:*

22 *a. Marketing and advertising;*

23 *b. Recruiting, vetting, or attracting qualified employees;*

24 *c. Offering incentive grants to retain or relocate qualified*
25 *employees; or*

26 *d. Paying up-front costs related to the program;*

27 *with program costs to average a minimum of seven thousand five*

- 1 hundred dollars (\$7,500) for each qualified employee; and
- 2 2. Successfully enters into an agreement with the authority under this
- 3 section;
- 4 (e) "Department" means the Department of Revenue;
- 5 (f) "Employer" has the same meaning as in KRS 141.010 and which is
- 6 required by KRS 141.310 to withhold a tax determined under KRS 141.315
- 7 or by the tables authorized by KRS 141.370;
- 8 (g) "Qualified employee" means any individual who:
- 9 1. Permanently relocates to this state as a result of the contracted
- 10 company's Taxpayer Transplant Program;
- 11 2. Maintains his or her current position or acquires new employment
- 12 upon relocation;
- 13 3. Works at a physical location within this state, at a remote site separate
- 14 from the employer's physical location; and
- 15 4. Earns gross income as defined in KRS 141.010(19) from an employer
- 16 of at least seventy-five thousand dollars (\$75,000) annually; and
- 17 (h) "Taxpayer Transplant Program" means the program established in
- 18 subsection (2) of this section and administered by the authority, which:
- 19 1. Is the result of an agreement entered into by the authority and the
- 20 contracted company in response to the request for proposal process;
- 21 2. Recruits individuals located outside this state to relocate within this
- 22 state as a qualified employee;
- 23 3. Does not extend for more than twenty-five (25) years under the terms
- 24 of the agreement; and
- 25 4. Is not open to new recruits after a period of five (5) years from the
- 26 start of the Taxpayer Transplant Program.
- 27 (2) (a) There hereby is established the Taxpayer Transplant Program to promote

1 relocation of qualified employees to the state.

2 (b) The authority shall issue a request for proposal to solicit information from
3 bidding companies for program evaluation and the establishment of a
4 contract.

5 (c) Upon completion of the evaluation process, the authority and the bidding
6 company shall enter into an agreement, after which the contracted company
7 may implement the Taxpayer Transplant Program and begin receiving
8 annual disbursements under Section 2 of this Act.

9 (3) The bid evaluation and monitoring process under this section for the Taxpayer
10 Transplant Program shall include:

11 (a) A bidding company shall submit information to the authority that includes
12 but not is limited to:

13 1. The name and identification number of the bidding company;

14 2. The projected number of new qualified employees that the bidding
15 company will relocate to Kentucky;

16 3. A timeline describing when the qualified employees will be relocated
17 in Kentucky;

18 4. A description of the projected costs that will be incurred by the bidding
19 company in the recruitment and retention of a qualified employee;

20 5. Documentation, including bank or financial statements, of at least ten
21 million dollars (\$10,000,000) pledged to the Taxpayer Transplant
22 Program; and

23 6. Any other information requested by the authority; and

24 (b) For each bidding company, the authority shall:

25 1. Review the information submitted;

26 2. Request any materials and make any inquiries concerning a bidding
27 company's submission as the authority deems necessary;

- 1 3. Evaluate:
- 2 a. The likelihood that the program will be an economic success for
- 3 the Commonwealth; and
- 4 b. The projections related to qualified employee recruits.
- 5 4. Determine, by resolution, if the proposal is approved; and
- 6 5. Notify the bidding company of the proposal's approval or denial.

7 (4) Upon acceptance of the proposal and establishment of a contract:

- 8 (a) The contracted company may implement the Taxpayer Transplant Program
- 9 and begin receiving annual disbursements from the department under
- 10 Section 2 of this Act; and
- 11 (b) The authority shall monitor:
- 12 1. The contracted company annually to determine if the contracted
- 13 company is successfully able to recruit qualified employees as
- 14 projected in subsection (3)(a)2. and 3. of this section;
- 15 2. The costs of the contracted company annually; and
- 16 3. Each qualified employee to ensure that he or she remains qualified
- 17 and, if no longer qualified, notify the department.

18 (5) A contracted company receiving an annual disbursement under Section 2 of this

19 Act shall:

- 20 (a) Make its books and records available to the authority or the department
- 21 upon request;
- 22 (b) File with the authority or the department documentation pertaining to the
- 23 Taxpayer Transplant Program as required by the authority or the
- 24 department; and
- 25 (c) Provide income verification of the qualified employees in the event the
- 26 department should no longer be in receipt of income statements.
- 27 (6) (a) If at any time the contracted company is unable to successfully recruit

1 qualified employees as projected, the agreement may be terminated by the
 2 authority.

3 (b) The authority shall immediately notify the contracted company and the
 4 department if it deems contract termination necessary.

5 (c) Upon contract termination, the annual disbursements shall continue for the
 6 previously qualified employees that continue to be employed as a result of
 7 the Taxpayer Transplant Program.

8 (7) Annual disbursements from the department shall not exceed a total of eight
 9 million dollars (\$8,000,000) annually for all contracted companies.

10 (8) A qualified employee under this section shall not be considered as an employee
 11 who qualified for any other tax incentives under KRS Chapter 139, 141, or 154,
 12 including wage assessment.

13 (9) The authority may promulgate administrative regulations under KRS Chapter
 14 13A to establish policies and procedures to implement this section.

15 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO
 16 READ AS FOLLOWS:

17 (1) As used in this section:

18 (a) "Annual disbursement";

19 (b) "Authority";

20 (c) "Contracted company";

21 (d) "Qualified employee"; and

22 (e) "Taxpayer Transplant Program" or "program";

23 have the same meaning as in Section 1 of this Act.

24 (2) (a) The department shall jointly work with the authority to provide an annual
 25 disbursement to a contracted company under the Taxpayer Transplant
 26 Program established in Section 1 of this Act.

27 (b) The annual disbursement shall be paid to the contracted company annually,

1 based upon the county in which the qualified employee relocates, and shall
2 be:

3 1. a. Four percent (4%) of the qualified employee's gross wages if the
4 relocation is to a county with a population of one hundred
5 thousand (100,000) or more based on the most recent federal
6 decennial census; or

7 b. Five and one-half percent (5.5%) of the qualified employee's
8 gross wages if the relocation is to a county with a population of
9 less than one hundred thousand (100,000) based on the most
10 recent federal decennial census;

11 2. Paid by the department to the contracted company within sixty (60)
12 days upon commencement of the calendar year; and

13 3. a. Prorated based on the number of days during the calendar year
14 that the qualified employee is in this state as a result of the
15 program established in Section 1 of this Act; or

16 b. Terminated for any qualified employee who relocates outside of
17 this state.

18 (3) (a) The department may promulgate administrative regulations under KRS
19 Chapter 13A to establish policies and procedures to implement this section.

20 (b) The contracted company shall provide the following information to the
21 department:

22 1. Contact information related to the contracted company;

23 2. The name and taxpayer identification of each qualified employee;

24 3. The address, including county of location, of the qualified employee;

25 4. The date each qualified employee:

26 a. Begins employment under the Taxpayer Transplant Program;

27 and

- 1 *b. Ends employment, if applicable;*
- 2 *5. The federal employer identification number of the employer for which*
- 3 *the qualified employee is employed; and*
- 4 *6. Any other information required by the department to process the*
- 5 *annual disbursement.*
- 6 *(5) (a) In order for the General Assembly to evaluate the Taxpayer Transplant*
- 7 *Program, the department shall provide the following information on a*
- 8 *cumulative basis for each fiscal year to provide a historical impact to the*
- 9 *Commonwealth:*
- 10 *1. The name and address of the contracted company which received the*
- 11 *annual disbursement;*
- 12 *2. The total amount of annual disbursement issued during the fiscal year*
- 13 *to the contracted company;*
- 14 *3. The name and address of each qualified employee employed during*
- 15 *the fiscal year;*
- 16 *4. The name and address of the employer which hired the qualified*
- 17 *employee;*
- 18 *5. The date the qualified employee:*
- 19 *a. Began employment under the program; and*
- 20 *b. Ended employment, if applicable; and*
- 21 *6. The salary of the qualified employee.*
- 22 *(b) The report required under paragraph (a) of this subsection shall be*
- 23 *submitted to the Interim Joint Committee on Appropriations and Revenue*
- 24 *no later than October 1, 2024, and no later than October 1 for each fiscal*
- 25 *year thereafter, and staff for Appropriations and Revenue may share*
- 26 *aggregated statistics from the report with the Interim Joint Committee on*
- 27 *Economic Development and Workforce Investment as long as there is a*

1 *Taxpayer Transplant Program in the Commonwealth.*

2 ➔Section 3. KRS 131.190 is amended to read as follows:

3 (1) No present or former commissioner or employee of the department, present or
4 former member of a county board of assessment appeals, present or former property
5 valuation administrator or employee, present or former secretary or employee of the
6 Finance and Administration Cabinet, former secretary or employee of the Revenue
7 Cabinet, or any other person, shall intentionally and without authorization inspect
8 or divulge any information acquired by him or her of the affairs of any person, or
9 information regarding the tax schedules, returns, or reports required to be filed with
10 the department or other proper officer, or any information produced by a hearing or
11 investigation, insofar as the information may have to do with the affairs of the
12 person's business.

13 (2) The prohibition established by subsection (1) of this section shall not extend to:

14 (a) Information required in prosecutions for making false reports or returns of
15 property for taxation, or any other infraction of the tax laws;

16 (b) Any matter properly entered upon any assessment record, or in any way made
17 a matter of public record;

18 (c) Furnishing any taxpayer or his or her properly authorized agent with
19 information respecting his or her own return;

20 (d) Testimony provided by the commissioner or any employee of the department
21 in any court, or the introduction as evidence of returns or reports filed with the
22 department, in an action for violation of state or federal tax laws or in any
23 action challenging state or federal tax laws;

24 (e) Providing an owner of unmined coal, oil or gas reserves, and other mineral or
25 energy resources assessed under KRS 132.820, or owners of surface land
26 under which the unmined minerals lie, factual information about the owner's
27 property derived from third-party returns filed for that owner's property, under

1 the provisions of KRS 132.820, that is used to determine the owner's
2 assessment. This information shall be provided to the owner on a confidential
3 basis, and the owner shall be subject to the penalties provided in KRS
4 131.990(2). The third-party filer shall be given prior notice of any disclosure
5 of information to the owner that was provided by the third-party filer;

6 (f) Providing to a third-party purchaser pursuant to an order entered in a
7 foreclosure action filed in a court of competent jurisdiction, factual
8 information related to the owner or lessee of coal, oil, gas reserves, or any
9 other mineral resources assessed under KRS 132.820. The department may
10 promulgate an administrative regulation establishing a fee schedule for the
11 provision of the information described in this paragraph. Any fee imposed
12 shall not exceed the greater of the actual cost of providing the information or
13 ten dollars (\$10);

14 (g) Providing information to a licensing agency, the Transportation Cabinet, or
15 the Kentucky Supreme Court under KRS 131.1817;

16 (h) Statistics of gasoline and special fuels gallonage reported to the department
17 under KRS 138.210 to 138.448;

18 (i) Providing any utility gross receipts license tax return information that is
19 necessary to administer the provisions of KRS 160.613 to 160.617 to
20 applicable school districts on a confidential basis;

21 (j) Providing documents, data, or other information to a third party pursuant to an
22 order issued by a court of competent jurisdiction; or

23 (k) Providing information to the Legislative Research Commission under:

24 1. KRS 139.519 for purposes of the sales and use tax refund on building
25 materials used for disaster recovery;

26 2. KRS 141.436 for purposes of the energy efficiency products credits;

27 3. KRS 141.437 for purposes of the ENERGY STAR home and the

- 1 ENERGY STAR manufactured home credits;
- 2 4. KRS 141.383 for purposes of the film industry incentives;
- 3 5. KRS 154.26-095 for purposes of the Kentucky industrial revitalization
- 4 tax credits and the job assessment fees;
- 5 6. KRS 141.068 for purposes of the Kentucky investment fund;
- 6 7. KRS 141.396 for purposes of the angel investor tax credit;
- 7 8. KRS 141.389 for purposes of the distilled spirits credit;
- 8 9. KRS 141.408 for purposes of the inventory credit;
- 9 10. KRS 141.390 for purposes of the recycling and composting credit;
- 10 11. KRS 141.3841 for purposes of the selling farmer tax credit;
- 11 12. KRS 141.4231 for purposes of the renewable chemical production tax
- 12 credit;
- 13 13. KRS 141.524 for purposes of the Education Opportunity Account
- 14 Program tax credit;
- 15 14. KRS 141.398 for purposes of the development area tax credit;
- 16 15. KRS 139.516 for the purposes of the sales and use tax exemption on the
- 17 commercial mining of cryptocurrency;~~and~~
- 18 16. KRS 141.419 for purposes of the decontamination tax credit; and
- 19 17. Section 2 of this Act for purposes of the Taxpayer Transplant
- 20 Program.

21 (3) The commissioner shall make available any information for official use only and on

22 a confidential basis to the proper officer, agency, board or commission of this state,

23 any Kentucky county, any Kentucky city, any other state, or the federal

24 government, under reciprocal agreements whereby the department shall receive

25 similar or useful information in return.

26 (4) Access to and inspection of information received from the Internal Revenue Service

27 is for department use only, and is restricted to tax administration purposes.

1 Information received from the Internal Revenue Service shall not be made available
2 to any other agency of state government, or any county, city, or other state, and
3 shall not be inspected intentionally and without authorization by any present
4 secretary or employee of the Finance and Administration Cabinet, commissioner or
5 employee of the department, or any other person.

6 (5) Statistics of crude oil as reported to the department under the crude oil excise tax
7 requirements of KRS Chapter 137 and statistics of natural gas production as
8 reported to the department under the natural resources severance tax requirements
9 of KRS Chapter 143A may be made public by the department by release to the
10 Energy and Environment Cabinet, Department for Natural Resources.

11 (6) Notwithstanding any provision of law to the contrary, beginning with
12 mine-map submissions for the 1989 tax year, the department may make
13 public or divulge only those portions of mine maps submitted by
14 taxpayers to the department pursuant to KRS Chapter 132 for ad
15 valorem tax purposes that depict the boundaries of mined-out parcel
16 areas. These electronic maps shall not be relied upon to determine actual
17 boundaries of mined-out parcel areas. Property boundaries contained in
18 mine maps required under KRS Chapters 350 and 352 shall not be
19 construed to constitute land surveying or boundary surveys as defined
20 by KRS 322.010 and any administrative regulations promulgated
21 thereto.

22 ➔Section 4. KRS 154.12-2035 is amended to read as follows:

23 (1) The cabinet shall maintain a searchable electronic database on its Web site
24 containing information on the cost and status of the programs listed in subsection
25 (3)(a) of this section. The database shall include all projects approved at any time in
26 the last five (5) years and shall include for each, where applicable, the following
27 information:

- 1 (a) The name of the program, the recipient or participant, the type of project, and
2 its location by county;
- 3 (b) Total and approved costs of the project or investment, and the amount of
4 incentives or other benefits authorized;
- 5 (c) For the Kentucky Business Investment Program and the Kentucky Enterprise
6 Initiative Act, the amount of incentives or other benefits actually recovered as
7 self-reported by the recipient;
- 8 (d) The number of new jobs estimated and, for the Kentucky Business Investment
9 Program, actually created, along with wage information for those jobs;
- 10 (e) Project status and the date and nature of the most recent activity; and
- 11 (f) Any other comparable data or information necessary to achieve transparency
12 and accountability for the specified programs.
- 13 (2) In addition to the electronic database required in subsection (1) of this section, the
14 cabinet shall prepare an annual report on the programs listed in subsection (3) of
15 this section and make it available on the Cabinet for Economic Development Web
16 site by November 1 of each year. The report shall include all projects approved in
17 the preceding fiscal year and shall provide for these projects the information
18 specified in subsection (1) of this section plus aggregate data for each program,
19 summary evaluations of program activity and effectiveness, and anything required
20 by statute to be reported for any particular program. The report shall also list all
21 projects that were approved in prior years but active at any time in the preceding
22 fiscal year, although for these projects the report need not provide further data.
- 23 (3) The following programs shall be subject to the reporting requirements of this
24 section:
- 25 (a) The electronic database required in subsection (1) of this section shall include
26 the Bluegrass State Skills Corporation, grants-in-aid and skills training
27 investment credit; Kentucky Business Investment Program; Kentucky

1 Enterprise Initiative Act; Office of Entrepreneurship and Small Business
2 Innovation programs; Incentives for Energy-related Business Act; Kentucky
3 Economic Development Finance Authority small business and direct loan
4 programs; Kentucky Industrial Revitalization Act; Kentucky Reinvestment
5 Act; Kentucky Small Business Tax Credit; economic development bonds;
6 Kentucky Industrial Development Act; Kentucky Jobs Development Act;
7 Kentucky Jobs Retention Act; the Kentucky Rural Economic Development
8 Act; **and the Taxpayer Transplant Program;** and

9 (b) The annual report required by subsection (2) of this section shall include all
10 programs listed in paragraph (a) of this subsection plus the Kentucky
11 Investment Fund Act, and tax increment financing, state participation projects.

12 (4) The cabinet shall coordinate with any other agency necessary to supply the
13 information required by this section.

14 ➔Section 5. (1) The Kentucky Economic Development Finance Authority
15 shall issue the request for proposal required in subsection (2)(b) of Section 1 of this Act
16 no later than 90 days after the effective date of this Act.

17 (2) There shall be a ten percent reduction in the Economic Development budget
18 unit during the next biennium if the request for proposal is not issued by 90 days after the
19 effective date of this Act.