

**154.28-080 Standards for approval of eligible companies and projects --
Authorizing resolution.**

- (1) The authority shall promulgate standards for the determination and approval of eligible companies and their economic development projects in accordance with KRS Chapter 13A.
- (2) The standards for approval of eligible companies and economic development projects shall include but not be limited to: the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to the residents of the Commonwealth; and the likelihood of the economic success of the economic development project.
- (3) The economic development project shall involve a minimum investment of one hundred thousand dollars (\$100,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final resolution authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development projects for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension.
- (4)
 - (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:
 1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or
 2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.
 - (b) If the base hourly wage calculated in paragraph (a)1. or 2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. However, for projects receiving preliminary approval of the authority prior to July 1, 2008, the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage existing on January 1, 2007. In addition to the applicable base hourly wage calculated above, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wage through increased hourly wages combined with employee benefits.
- (5) No economic development project which will result in the replacement of a manufacturing or agribusiness facility existing within the Commonwealth shall be

approved by the authority; however, the authority may approve an economic development project that:

- (a) Rehabilitates a manufacturing or agribusiness facility:
 1. Which has not been in operation for a period of ninety (90) or more consecutive days;
 2. For which the current occupant of the facility has published a notice of closure so long as the eligible company intending to acquire the facility is not an affiliate of the current occupant; or
 3. To which the title is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;
 - (b) Replaces a manufacturing or agribusiness facility existing in the Commonwealth:
 1. To which the title shall have been taken under the exercise of the power of eminent domain, or to which the title shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or
 2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or
 - (c) Replaces an existing manufacturing or agribusiness facility located in the same county that cannot be expanded due to the unavailability of real estate at or adjacent to the manufacturing or agribusiness facility to be replaced. Any economic development project satisfying the requirements of this subsection shall be eligible only for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing or agribusiness facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority that results in a lease abandonment or lease termination by the eligible company without the consent of the lessor.
- (6) With respect to each eligible company making an application to the authority for inducements, and with respect to these economic development projects described in the application which do not involve an expansion, the authority shall make inquiries and request materials of the applicant, including but not limited to written evidence that except for the receipt of inducements authorized by KRS 154.28-015 to 154.28-090 and KRS 141.400, the eligible company will not locate its economic development project within the Commonwealth. Upon the review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project.

- (7) After a diligent review of the relevant materials and completion of its inquiries, the authority, by resolution of its board of directors, may designate an eligible company to be an approved company.
- (8) All meetings of the board of directors of the authority shall be held in accordance with KRS 61.805 to 61.850. The board of directors of the authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

Effective: June 26, 2007

History: Amended 2007 Ky. Acts ch. 69, sec. 5, effective June 26, 2007. -- Amended 2002 Ky. Acts ch. 338, sec. 38, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 321, sec. 7, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 584, sec. 2, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 194, sec. 53, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 390, sec. 10, effective July 15, 1994; and ch. 450, sec. 31, effective July 15, 1994. -- Created 1992 Ky. Acts ch. 363, sec. 9, effective July 14, 1992.