

#### **154.34-080 Reinvestment agreement -- Terms and provisions.**

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

- (1) That the authority may employ an independent consultant or utilize technical resources to verify the cost of the project, and that the approved company shall reimburse the authority for the cost of a consultant or other technical resources employed by the authority;
- (2) The maximum approved costs that may be recovered;
- (3) A set employment retention goal, which shall be at least eighty-five percent (85%) of the number of full-time employees employed at the facility on the date the company receives preliminary approval;
- (4) That approval of the company is not a guarantee of incentives and that eligibility for incentives shall be contingent on the approved company meeting the requirements established by the reinvestment agreement and this subchapter;
- (5) The term of the reinvestment agreement, which shall not be longer than the earlier of:
  - (a) The date on which the approved company has received incentives equal to the approved costs of its reinvestment project; or
  - (b) Ten (10) years from the date of final approval granted by the authority;
- (6) That the authority may reduce the incentives, suspend the incentives, or terminate the agreement if the approved company fails to comply with provisions of the reinvestment agreement;
- (7) That both the authority and the department shall have the right to pursue any remedy provided under this reinvestment agreement and any other remedy at law to which it may be entitled;
- (8) That the approved company shall make available to the department and the authority all of its records pertaining to the reinvestment project, including but not limited to payroll records, records relating to the expenditure of eligible equipment and related costs, eligible skills upgrade training costs, and approved costs, and any other records pertaining to the project as the authority or the department may require;
- (9) That the authority may share information with the department for the purposes of monitoring and enforcing the terms of the reinvestment agreement;
- (10) That the agreement shall not be transferred or assigned by the approved company without the expressed written consent of the authority; and
- (11) Any other provisions not inconsistent with this subchapter and determined to be necessary or appropriate by the parties to the reinvestment agreement.

**Effective:** June 26, 2009

**History:** Amended 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 4, effective June 26,

2009. -- Amended 2006 (1st Extra. Sess.) Ky. Acts ch. 2, sec. 62, effective June 28, 2006. -- Amended 2005 Ky. Acts ch. 85, sec. 585, effective June 20, 2005. -- Created 2003 Ky. Acts ch. 148, sec. 8, effective June 24, 2003.

**Legislative Research Commission Note** (6/26/2009). 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 7, provides that, notwithstanding the amendments contained in Sections 1 to 6 of that Act (which includes this statute), "all reinvestment projects preliminarily approved on or after the effective date of this Act shall not be eligible for final approval until July 1, 2010"; and 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 8, provides that, notwithstanding the amendments in Sections 1 to 6 of that Act or the repeals in Section 114 of that Act, "all reinvestment projects preliminarily or finally approved prior to the effective date of this Act shall be governed by Subchapter 34 of KRS Chapter 154 as it existed prior to the effective date of this Act."

**Legislative Research Commission Note** (6/28/2006). 2006 (1st Extra Sess.) Ky. Acts ch. 2, sec. 73, provides that "unless a provision of this Act specifically applies to an earlier tax year, the provisions of this Act shall apply to taxable years beginning on or after January 1, 2007."