

**148.854 Legacy expansion projects -- Purpose -- Eligibility for incentives -- Incentives available -- Application, approval, and monitoring process -- Term of agreement -- Analysis of positive fiscal impact -- Legislative findings.**

- (1) As used in this section:
  - (a) "Legacy expansion project" means an expansion project approved under this section; and
  - (b) "Premier event" means a sports event that:
    1. Is in the premier series or top sanctioned level of all similar types of events staged on a national basis; and
    2. Is broadcast nationally.
- (2) The purpose of this section is to encourage the location of premier events in the Commonwealth.
- (3) To qualify for incentives under this section, an eligible company or its assignee shall:
  - (a) Have an existing project under KRS 148.851 to 148.860 that was approved prior to June 26, 2009;
  - (b) Invest a minimum of thirty million dollars (\$30,000,000) in the expansion of the previously approved project;
  - (c) Present one (1) or more new premier events on an annual basis at the legacy expansion project site. As used in this paragraph, "new premier event" means a premier event that was not presented at the existing project prior to approval of the legacy expansion project; and
  - (d) Include a facility with a permanent seating capacity of sixty-five thousand (65,000) or more, where premier events will be held.
- (4) An approved company meeting the requirements established by subsection (3) of this section shall be eligible to recover the following:
  - (a) Up to twenty-five percent (25%) of the approved costs expended for the legacy expansion project; and
  - (b) One hundred percent (100%) of any amounts outstanding under the agreement for the original project between the approved company, or any assignee of the approved company, and the authority.
- (5) To obtain the incentives authorized pursuant to this section, an eligible company that meets the requirements of subsection (3) of this section shall file an application for a legacy expansion project with the authority. The legacy expansion project shall be reviewed and evaluated as a new project under KRS 148.851 to 148.860, and the application and review process established in KRS 148.851 to 148.860 shall apply, except as otherwise provided in this section. The cabinet may establish requirements and guidelines for the review and approval of projects under this section that are different from, or in addition to the requirements and guidelines established for the review of projects in general under KRS 148.851 to 148.860.
- (6) (a) The application required under subsection (5) of this section shall include a plan describing the eligible company's efforts to promote the hiring of Kentucky residents to be employed in the construction and operation of

the legacy expansion project.

1. The plan shall be submitted in a format, and with sufficient detail to demonstrate that the eligible company has evaluated the following factors in the development of its plan:
  - a. An analysis of its specific need to employ particular occupations, skills, trades, and technical expertise in the construction and operation of the legacy expansion project;
  - b. An estimate of the total number of individuals expected to be employed in the construction and operation of the legacy expansion project, which shall include a categorization of construction phase and operational phase employment projections;
  - c. An analysis of the specific need to employ individuals skilled in specialized tasks or in the operation of specialized equipment unique to the construction or operation of the legacy expansion project, together with an evaluation of the availability of sufficiently skilled laborers within the Commonwealth who may be employed to perform the specialized tasks identified or to work with particular specialized equipment;
  - d. An analysis of the labor market conditions in Kentucky counties in the vicinity of the legacy expansion project at the time construction of the project is ongoing and during the time at which operations at the project commence, which shall include the eligible company's estimates of the availability of Kentucky laborers of sufficient skill, training, and expertise to perform the work the company requires, during both the construction and operational phases of the project; and
  - e. An analysis of any other factor the authority and the eligible company may agree upon.
2. The plan may include any other items the authority and the eligible company may agree upon.
3.
  - a. The plan may include an expression of hiring targets and preferences for Kentucky residents in a format and with the detail that the authority and eligible company may agree upon.
  - b. The benchmark hiring target for the construction phase shall be to hire one hundred percent (100%) of contractors from contractors with facilities in Kentucky, and the benchmark hiring target for the operations phase shall be the employment of workers, of whom at least seventy-five percent (75%) are Kentucky residents.
  - c. Notwithstanding the benchmark targets established by subdivision b. of this subparagraph, the authority and eligible company may agree upon specific hiring targets after consideration of the analyses required by subparagraph 1. of this paragraph.
  - d. The plan may set forth preferences for use of materials

manufactured in Kentucky, so long as they are competitively priced.

- e. In no event shall hiring benchmarks, hiring targets, or any preferences take precedence over the results of a competitive bidding process.
  - (b) The authority shall not approve the application required by subsection (5) of this section until the eligible company has submitted the plan required by this subsection, and the plan has been evaluated and approved by the authority.
  - (c) An approved company shall report annually to the authority concerning its compliance with the terms of its plan.
  - (d) The authority shall review the annual reports filed by an approved company in relation to an approved company's approved plan to determine compliance with the plan. If the authority determines that the approved company has substantially failed to comply with the terms of its plan, the authority may take reasonably necessary measures to ensure compliance with the plan, including but not limited to the withholding of the incentives authorized by this section. If the authority has determined that the approved company has substantially failed to comply with the terms of its plan, it shall provide the eligible company with written notice of this determination, and the eligible company shall be provided a reasonable opportunity to cure any deficiencies prior to the withholding of any incentives.
- (7) (a) The initial term of an agreement entered into under this section shall be ten (10) years. During each year of the agreement term, the approved company shall be eligible to recover one-tenth (1/10) of the total incentives approved by the authority.
- (b) If, at the end of the original ten (10) year term of the legacy expansion project agreement, the approved company has not claimed all of the approved incentives available under the legacy expansion project agreement, the authority shall extend the term of the agreement by one (1) year for each year during the original ten (10) year term of the agreement that the approved company met or exceeded the requirements established by subsection (3)(c) of this section. The term of the legacy expansion project agreement, including all extensions, shall not exceed twenty (20) years, and the amount of recovery during each year that the agreement is extended shall be determined on a pro rata basis, based upon the total number of years for which the agreement is extended.
- (8) The Kentucky General Assembly recognizes that the benefits accruing to the Commonwealth from a legacy expansion project include benefits beyond those that would typically be considered in making the determination required by KRS 148.855(4)(c). Therefore, the analysis of positive fiscal impact required by KRS 148.855(4)(c) and (5) shall include an accounting of the following social benefits:
- (a) The positive impact that the legacy expansion project will have on the existing tourism attraction project;
  - (b) The positive impact the legacy expansion project will have on other

tourism attractions that will receive increased visitation due to the existence of the legacy expansion project; and

- (c) The positive impacts that will accrue to the economy of the Commonwealth from the national and international exposure the legacy expansion project is expected to provide.

**Effective:** June 26, 2009

**History:** Created 2009 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 55, effective June 26, 2009.