

**96.895 Proration and distribution of payments of sums equivalent to taxes based on book value among the state, counties, cities, and school districts -- Regional development agency assistance fund -- Portion of TVA payment received by state to be transferred to fund for distribution to regional development agencies in fund-eligible counties.**

- (1) As used in this section, unless the context requires otherwise:
  - (a) "Book value" means original cost unadjusted for depreciation as reflected in the TVA's books of account;
  - (b) "Fund" means the regional development agency assistance fund established in subsection (4) of this section;
  - (c) "Fund-eligible county" means one (1) of Adair, Allen, Ballard, Barren, Bell, Butler, Caldwell, Calloway, Carlisle, Christian, Clinton, Cumberland, Edmonson, Fulton, Graves, Grayson, Harlan, Hart, Henderson, Hickman, Livingston, Logan, Lyon, Marshall, McCracken, McCreary, Metcalfe, Monroe, Muhlenberg, Ohio, Russell, Simpson, Todd, Trigg, Union, Warren, Wayne, Webster, or Whitley Counties;
  - (d) "Regional development agency" or "agency" means a local industrial development authority established under KRS 154.50-301 to 154.50-346 that is designated by a fiscal court to receive a payment pursuant to this section;
  - (e) "TVA" means the Tennessee Valley Authority; and
  - (f) "TVA property" means land owned by the United States and in the custody of the TVA, together with improvements that have a fixed situs on the land, including work in progress but excluding temporary construction facilities, if these improvements either:
    1. Were in existence when title to the land on which they are situated was acquired by the United States; or
    2. Are allocated by the TVA or determined by it to be allocable to power. However, manufacturing machinery as interpreted by the Department of Revenue for franchise tax determination; ash disposal systems; and coal handling facilities, including railroads, cranes and hoists, and crushing and conveying equipment, shall be excluded.
- (2) Book value shall be determined, for purposes of applying this section, as of the June 30 used by the TVA in computing the annual payment to the Commonwealth that is subject to redistribution by the Commonwealth.
- (3) Except for payments made directly by the TVA to counties, the total fiscal year payment received by the Commonwealth of Kentucky from the TVA, as authorized by Section 13 of the Tennessee Valley Authority Act, as amended, shall be prorated thirty percent (30%) to the general fund of the Commonwealth and seventy percent (70%) among counties, cities, and school districts, as provided in subsections (6) and (7) of this section.
- (4) (a) The regional development agency assistance fund is hereby established in the State Treasury.

- (b) The fund shall be administered by the Department for Local Government for the purpose of providing funding to agencies that are designated to receive funding in a given fiscal year by the fiscal court of each fund-eligible county through the Regional Development Agency Assistance Program established in KRS 96.905.
  - (c) The fund shall only receive the moneys transferred from the general fund pursuant to subsection (5) of this section.
  - (d) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward into the succeeding fiscal year. Any interest earnings of the fund shall become a part of the fund and shall not lapse.
- (5) For fiscal years beginning on or after July 1, 2018, a portion of the total fiscal year payment received by the Commonwealth that is allocated to the general fund shall be transferred from the general fund to the regional development agency assistance fund established in subsection (4) of this section. This portion shall be equal to:
- (a) In fiscal year 2018-2019, two million dollars (\$2,000,000);
  - (b) In fiscal year 2019-2020, four million dollars (\$4,000,000); and
  - (c) In each fiscal year, beginning with the 2020-2021 fiscal year, six million dollars (\$6,000,000).
- (6) The payment to each county, city, and school district shall be determined by the proportion that the book value of TVA property in such taxing district, multiplied by the current tax rate, bears to the total of the book values of TVA property in all such taxing districts in the Commonwealth, multiplied by their respective tax rates. However, for purposes of this calculation, each public school district shall have its tax rate increased by thirty cents (\$0.30).
- (7) As soon as practicable after the amount of payment to be made to the Commonwealth is finally determined by the TVA, the Department of Revenue shall determine the book value of TVA property in each county, city, and school district and shall prorate the payments allocated to counties, cities, and school districts under subsection (3) of this section among the distributees as provided in subsection (6) of this section. The Department of Revenue shall certify the payment due each taxing district to the Finance and Administration Cabinet which shall make the payment to such district.
- (8) In each fiscal year, after the Department of Revenue has calculated the prorated payment amount that is due to each county pursuant to subsection (7) of this section, the Department for Local Government shall then make a written request to the fiscal court of each fund-eligible county for the name and address of the agency the fiscal court designates to receive a payment from the fund pursuant to subsection (5) of this section.
- (9) Within sixty (60) days of the date of the Department for Local Government's request, each fiscal court shall designate in writing one (1) agency that shall receive a share of the total amount of funds transferred to the fund in that fiscal year pursuant to subsection (5) of this section. Each agency's share shall be calculated as

the total amount of funds transferred to the fund in that fiscal year divided by the total number of agencies designated to receive funds by fiscal courts of fund-eligible counties. Once the amount is determined by the Department for Local Government, the payment shall be paid by the Finance and Administration Cabinet directly to the designated agency. No amount shall be taken from the fund to pay administrative expenses by the Department for Local Government.

- (10) If a fiscal court does not respond to the Department for Local Government within sixty (60) days of the date of the Department for Local Government's request, the payment otherwise due to an agency designated by that fiscal court shall be reallocated equally among the agencies that have been designated to receive payments by the other fiscal courts.
- (11) All agencies receiving funds under this section shall provide a written report annually, no later than October 1, to the fiscal court that designated it for payment and to the Interim Joint Committee on Appropriations and Revenue. The report shall describe how the funds were expended and the results of the use of funds in terms of economic development and job creation.
- (12) This section shall be applicable to all payments received after April 10, 2018, from the TVA under Section 13 of the Tennessee Valley Authority Act as amended.

**Effective:** June 27, 2019

**History:** Amended 2019 Ky. Acts ch. 151, sec. 2, effective June 27, 2019. -- Amended 2018 Ky. Acts ch. 129, sec. 1, effective April 10, 2018. -- Amended 2005 Ky. Acts ch. 85, sec. 104, effective June 20, 2005. -- Repealed and reenacted 1990 Ky. Acts ch. 476, Pt. V, sec. 301, effective July 13, 1990. -- Amended 1986 Ky. Acts ch. 27, sec. 1, effective February 24, 1986. -- Amended 1978 Ky. Acts ch. 163, sec. 2, effective March 29, 1978. -- Created 1952 Ky. Acts ch. 61, sec. 1, effective June 19, 1952.