GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2012 REGULAR SESSION

HOUSE BILL NO. 56

FRIDAY, JANUARY 20, 2012

The following bill was reported to the Senate from the House and ordered to be printed.

RECEIVED AND FILED
DATE April 11, 2012
11:06 am
ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY

1 AN ACT relating to economic development.

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

3 ➔Section 1. KRS 154.32-090 is amended to read as follows:

4 (1) An approved company or, with the authority's consent, an affiliate of an approved
5 company may impose wage assessments against employees as provided in this
6 section if a wage assessment is included in the incentives awarded to the approved
7 company in the tax incentive agreement. The level of wage assessment shall be
8 negotiated as part of the tax incentive agreement.

9 (2) If an economic development project is located in an enhanced incentive county, the
10 approved company or, with the authority's consent, an affiliate of the approved
11 company may require that each employee subject to the tax imposed by KRS
12 141.020, whose job is determined by the authority to be created as a result of the
13 economic development project, as a condition of employment, agree to an
14 assessment of up to five percent (5%) of taxable wages.

15 (3) (a) If the economic development project is not located in an enhanced incentive
16 county, and is located in a local jurisdiction where:

17 1. No local occupational license fee is imposed; or

18 2. a. A local occupational license fee greater than or equal to one
19 percent (1%) is imposed; and

20 b. The local jurisdiction agrees to forgo one percent (1%) via credits
21 against the local occupational license fee for the affected
22 employees; then

23 (b) An approved company or, with the authority's consent, an affiliate of an
24 approved company may require that each employee subject to tax imposed by
25 KRS 141.020, whose job is determined by the authority to be created as a
26 result of the economic development project, as a condition of employment,
27 agree to pay an assessment of up to four percent (4%) of taxable wages.

1 (4) (a) If:

2 1. The economic development project is not located in an enhanced
3 incentive county, and is located in a jurisdiction where the local
4 occupational license fee is less than one percent (1%); and

5 2. The local jurisdiction agrees to forgo the total amount of the local
6 occupational license fee; then

7 (b) An approved company or, with the authority's consent, an affiliate of an
8 approved company may require that each employee subject to tax imposed by
9 KRS 141.020, whose job is determined by the authority to be created as a
10 result of the economic development project, as a condition of employment,
11 agree to pay an assessment of up to three percent (3%) of taxable wages, plus
12 a percentage equal to the amount of the local occupational license fee the local
13 jurisdiction agrees to forgo.

14 (5) (a) If:

15 1. The project is not located in an enhanced incentive county and is located
16 in a county where the jurisdiction imposes a local occupational license
17 fee of less than one percent (1%); and

18 2. The local jurisdiction agrees to forgo only a portion of the total amount
19 of the local occupational license fee; then

20 (b) An approved company or, with the authority's consent, an affiliate of an
21 approved company may require that each employee subject to tax imposed by
22 KRS 141.020, whose job is determined by the authority to be created as a
23 result of the economic development project, as a condition of employment,
24 agree to pay an assessment to be determined as follows:

25 1. Divide the local occupational license fee that the local jurisdiction has
26 agreed to forgo by the total local occupational license fee imposed;

27 2. Multiply the result determined under subparagraph 1. of this paragraph

1 by three percent (3%); and
2 3. Add the result from subparagraph 2. of this paragraph to the local
3 occupational license fee that the local jurisdiction has agreed to forgo.
4 (6) (a) If:
5 1. The project is not located in an enhanced incentive county, and is
6 located in a county where the jurisdiction imposes a local occupational
7 license fee equal to or greater than one percent (1%); and
8 2. The local jurisdiction agrees to forgo the local occupational license fee
9 in an amount of less than one percent (1%); then
10 (b) An approved company or, with the authority's consent, an affiliate of an
11 approved company may require that each employee subject to tax imposed by
12 KRS 141.020, whose job is determined by the authority to be created as a
13 result of the economic development project, as a condition of employment,
14 agree to pay an assessment to be determined as follows:
15 1. Divide the local occupational license fee that the local jurisdiction has
16 agreed to forgo by one percent (1%);
17 2. Multiply the result determined under subparagraph 1. of this paragraph
18 by three percent (3%); and
19 3. Add the result from subparagraph 2. of this paragraph to the local
20 occupational license fee that the local jurisdiction has agreed to forgo.
21 (7) If the project is not located in an enhanced incentive county, and***:***
22 ***(a)*** Is located in a local jurisdiction ***that***~~[where the jurisdiction]~~ does not impose a
23 local occupational license fee, the local jurisdiction shall be required to
24 provide some alternative inducement satisfactory to the authority at the local
25 level in order for a preliminarily approved company to receive final approval.
26 However, the authority may waive this requirement if there are reasonable
27 circumstances that prevent the local jurisdiction from providing a reasonable

1 inducement*; or*

2 *(b) Is located in a local jurisdiction that does impose a local occupational*
3 *license fee, the jurisdiction may request that the authority waive the local*
4 *occupational license fee requirements established by subsection (3), (4), (5)*
5 *or (6) of this section if the local jurisdiction offers alternative inducements*
6 *of similar value satisfactory to the authority. The authority shall review all*
7 *requests for a waiver, and may waive the local occupational license fee*
8 *requirements and instead require the local jurisdiction to provide*
9 *alternative inducements of similar value if the authority determines that the*
10 *circumstances warrant an alternative contribution by the local jurisdiction*.

11 (8) Each employee paying the assessment shall simultaneously be entitled to a credit
12 against the Kentucky individual income tax required to be withheld under KRS
13 141.310 equal to the state portion of the assessment and shall be entitled to a credit
14 against the local occupational license tax equal to the local portion of the
15 assessment.

16 (9) If more than one (1) local jurisdiction imposes an occupational license fee, the local
17 jurisdiction portion of the assessment shall be prorated proportionately among the
18 taxes imposed by the local jurisdictions unless one (1) local jurisdiction agrees to
19 forgo the receipt of these taxes in an amount equal to the local jurisdiction portion
20 of the wage assessment, in which case no proration shall be made.

21 (10) If a full-time employee subject to state tax imposed by KRS 141.020 is already
22 employed by the approved company at a site other than the site of the economic
23 development project, that full-time employee's job shall be deemed to have been
24 created when the full-time employee is transferred to the site of the economic
25 development project if the full-time employee's existing job is filled with a new
26 full-time employee.

27 (11) If an approved company elects to impose the assessment as a condition of

1 employment, it shall be authorized to deduct the assessment from each payment of
2 wages to the employee unless the approved company receives an advance
3 disbursement as set forth in KRS 154.32-080, in which case assessment claims shall
4 be filed with the department, but no assessment shall be withheld by the company
5 until the advance disbursement is repaid in full.
6 (12) Notwithstanding any other provision of the Kentucky Revised Statutes, if an
7 approved company elects not to deduct the assessment from each payment of wages
8 to the employee, but rather requests a reimbursement of state tax imposed by KRS
9 141.020 or local occupational tax in the aggregate after they have been paid to the
10 state or local jurisdiction, no interest shall be paid by the state or by the local
11 jurisdiction on that reimbursement.
12 (13) No credit, or portion thereof, shall be allowed against any occupational license fee
13 imposed by or dedicated solely to the board of education in a local jurisdiction.
14 (14) An approved company imposing an assessment shall make its payroll, books, and
15 records available to the authority or the department upon request, and shall file with
16 the authority or department documentation pertaining to the assessment as the
17 authority or department may require.
18 (15) Any assessment of the wages of employees of an approved company in connection
19 with their employment at an economic development project shall permanently cease
20 at the expiration of the tax incentive agreement.

Speaker-House of Representatives

President of Senate

Attest: Chief Clerk of House of Representatives

Approved Governor

Date 4-11-12