

Substitute for SENATE BILL No. 453

AN ACT concerning economic development; relating to rural development; establishing the Kansas commission on rural policy; concerning the rural housing incentive act; pertaining to certain definitions; relating to regional foundation funds; amending K.S.A. 2007 Supp. 12-5242 and 74-50,154 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) Sections 1 through 4, and amendments thereto, shall be known and may be cited as the Kansas commission on rural policy act.

(b) The legislature of the state of Kansas hereby finds and declares that:

(1) Rural communities provide employment, education, services and opportunities for social interaction and play a critical role in the economic viability of the state of Kansas;

(2) decline in these communities has resulted in the need for focused efforts by the state of Kansas to ensure their future prosperity and ability to continue to contribute to the welfare and economy of the state; and

(3) the needs of the citizens of the state of Kansas and the public and private entities engaged in rural and community development will be best served by a commission charged with the mission of facilitating and supporting rural development projects for the benefit of its citizens to promote the state's research, development and entrepreneurial objectives.

(c) The purpose for which the Kansas commission on rural policy is created is to make rural Kansas the most desirable area in which to conduct, facilitate, support and finance rural business, cultural development and entrepreneurship, and to make Kansas a national leader in the creation and implementation of strategies to foster leadership, the retention of youth, development of entrepreneurship and encouragement of local wealth generation, to create new jobs, foster economic growth, advance knowledge and improve the quality of life for the citizens of the state of Kansas. To accomplish this goal the Kansas commission on rural policy will develop recommendations for rural economic development based on national best practices and benchmarking that incorporates the following:

(1) Support of efforts to coordinate research and advocacy to provide tax credits and financing through community foundations and other philanthropic organizations, and to promote and finance rural entrepreneurial activity and wealth retention;

(2) strategies that promote an extensive network of transportation and telecommunications services to allow local economies to become fully integrated into the global economy; and

(3) local efforts to develop or expand meaningful leadership development programs and to promote opportunities to recruit young people to return to or establish their home and business in a rural community.

New Sec. 2. (a) There is hereby established a body politic and corporate to be known as the Kansas commission on rural policy. The commission shall be an independent instrumentality of the state. The exercise by the commission of the powers conferred by this act shall be deemed and held to be the performance of an essential governmental function.

(b) (1) The Kansas commission on rural policy shall be governed by a board of directors consisting of 12 members.

(2) Nine members of the board of directors shall be voting members appointed as follows: Three shall be appointed by the governor, two shall be appointed by the speaker of the house of representatives, two shall be appointed by the president of the senate, one shall be appointed by the minority leader of the house of representatives and one shall be appointed by the minority leader of the senate. Each member appointed to the board of directors shall be recognized for outstanding knowledge and leadership in one of the following business sectors or key areas:

(A) Agriculture;

(B) oil and gas;

(C) aviation;

(D) finance and banking;

(E) tourism;

(F) any other primary, job creating, value added business sector;

(G) fostering leadership;

(H) encouraging wealth retention and generation;

(I) developing entrepreneurship;

(J) retaining youth in rural communities; and

(K) health care.

(3) All voting members appointed to the board shall be subject to senate confirmation as provided in K.S.A. 75-4315b, and amendments thereto. Any voting member appointed to the board whose nomination is subject to confirmation during a regular session of the legislature shall be deemed terminated when the senate rejects the nomination. No such termination shall affect the validity of any action taken by such member of the board before such termination.

(4) The terms of the nine voting members first appointed to the board of directors shall be as follows: Four years for members appointed by the governor, three years for members appointed by the speaker of the house of representatives and the president of the senate and two years for members appointed by the minority leader of the house of representatives and the minority leader of the senate. Members of the first board shall be appointed by September 1, 2008. Subsequent terms of all voting members appointed to the board shall be for four years.

(5) The other three members of the board of directors shall serve ex officio: The secretary of commerce, the secretary of agriculture and the president of Kansas, Inc. Each ex officio member of the commission may designate an officer or employee of the state agency or organization of the ex officio member to serve on the commission in place of the ex officio member. The ex officio members of the commission, or their designees, shall be nonvoting members of the commission and shall provide information and advice to the commission.

(c) The Kansas commission on rural policy board of directors shall elect annually from among its voting members a chairperson, vice-chairperson and secretary. Five voting members of the board shall constitute a quorum and the affirmative vote of five members shall be necessary for any action taken by the board. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

(d) Members of the commission attending any meeting of the commission or any subcommittee meeting authorized by the commission shall be paid amounts as provided in K.S.A. 75-3223, and amendments thereto.

(e) All resolutions and orders of the Kansas commission on rural policy board of directors shall be recorded and authenticated by the signature of the secretary or a person designated by the secretary. The book of resolutions, orders, minutes of open meetings, annual reports and annual financial statements of the commission shall be public records as defined by K.S.A. 45-215 et seq., and amendments thereto. All public records shall be subject to regular audit as provided in K.S.A. 46-1106, and amendments thereto.

(f) The commission is hereby authorized to engage legal counsel, expert advisers or executive staff to carry out the duties of the commission. Compensation for such counsel, advisers or staff shall be determined by the commission within the limits of available funds.

(g) The commission is hereby authorized to accept grants, gifts, bequests and other financial or in-kind contributions.

(h) To facilitate the organization and start-up of the commission, the department of commerce shall provide administrative assistance until such time as the commission has resources to provide staffing on its own. In no event shall such assistance continue beyond September 1, 2010.

New Sec. 3. (a) The Kansas commission on rural policy shall develop recommendations for community-based programming and funding in the following key areas: Fostering leadership; encouraging wealth retention and generation; developing entrepreneurship through the coordination of existing programs; and retaining youth in rural communities. The commission shall not compete with, duplicate or assume the responsibilities or functions of existing federal or state funded programs and organizations, in delivering services related to the above key areas, but will design, collaborate with and optimize the activities of such other agencies in a comprehensive effort.

(b) Prior to July 1, 2009, the commission shall perform the following:

(1) Develop a comprehensive plan for fulfillment of the commission's duties, including an evaluation of the current efforts being utilized to fulfill the commission's objectives, and report on the best practices currently being conducted and on the commission's activities to the legislature during the 2009 legislative session;

(2) develop partnerships with other organizations to offer technical assistance to rural communities seeking programming assistance; and

(3) develop partnerships with private organizations and institutions engaged in rural development strategies to identify best practices and make those resources available to rural communities through a centralized point of contact.

(c) In addition to the duties set forth in subsection (b), the commission, once appointed and confirmed, shall perform the following:

(1) Develop on-the-ground resources for rural communities utilizing existing resources and partnerships or by developing new efforts and strategies;

(2) act in concert with contracting organizations to develop fundamental capacity building resources to assist communities in achieving growth using the key areas set forth in subsection (a);

(3) review rural development programs in other state agencies and provide strategic recommendations to such agencies;

(4) serve as a convener of organizations engaged in activities focused on the key areas set forth in subsection (a) to develop unified recommendations for rural development efforts across the state;

(5) develop and recommend to the secretary of commerce a strategic mission for the office of rural opportunity;

(6) report annually to the legislature with each annual report to include a report on the activities of the commission, recommendations by the commission and suggestions for legislation.

New Sec. 4. The provisions of sections 1 through 4, and amendments thereto, shall expire on July 1, 2011.

Sec. 5. K.S.A. 2007 Supp. 12-5242 is hereby amended to read as follows: 12-5242. As used in the rural housing incentive district act:

(a) “City” means any city incorporated in accordance with Kansas law with a population of less than ~~40,000~~ 60,000 in a county with a population of less than ~~60,000~~ 80,000, as certified to the secretary of state by the director of the division of the budget on the previous July 1st in accordance with K.S.A 11-201, and amendments thereto;

(b) “County” means any county organized in accordance with K.S.A. 18-101 et seq., and amendments thereto, with a population of less than ~~40,000~~ 60,000, as certified to the secretary of state by the director of the division of the budget on the previous July 1st in accordance with K.S.A 11-201, and amendments thereto;

(c) “Developer” means the person, firm or corporation responsible under an agreement with the governing body to develop housing or related public facilities in a district.

(d) “District” means a rural housing incentive district established in accordance with this act.

(e) “Governing body” means the board of county commissioners of any county or the mayor and council, mayor and commissioners or board of commissioners, as the laws affecting the organization and status of cities affected may provide;

(f) “Secretary” means the secretary of commerce of the state of Kansas.

(g) “Real property taxes” means and includes all taxes levied on an ad valorem basis upon land and improvements thereon.

(h) “Taxing subdivision” means the county, the city, the unified school district, and any other taxing subdivision levying real property taxes, the territory or jurisdiction of which includes any currently existing or subsequently created rural housing incentive district.

Sec. 6. K.S.A. 2007 Supp. 74-50,154 is hereby amended to read as follows: 74-50,154. (a) As used in this act: (1) “*Business support services*” means *business counseling, technical assistance and business planning services provided to existing or prospective small businesses or entrepreneurs*;

(2) “contributions” means and includes the donation of cash or property other than used clothing in an amount or value of \$250 or more. Contributions shall be valued as follows:

(A) Stocks and bonds contributed shall be valued at the stock market price on the date of transfer;

(B) personal property items contributed shall be valued at the lesser of the item’s fair market value or cost to the donor and may be inclusive

of costs incurred in making the contribution. Such value shall not include sales tax;

(C) contributions of real estate are allowable for credit only when title of such real estate is in fee simple absolute and is clear of any encumbrances; and

(D) the amount of credit allowable shall be based upon the lesser of two current independent appraisals conducted by state licensed appraisers;

~~(2)~~ (3) “department” means the department of commerce;

(4) “entrepreneur” means an individual creating a new business, service or product;

(5) “region” means multi-county areas as defined by the secretary of commerce;

~~(3)~~ (6) “regional business development fund” means an authorized and audited fund that is created by taxpayer contributions, interest income and investment income and is managed by the regional foundation board of directors for the purposes of economic and leadership development in the region;

(7) “regional foundation” means any organization in Kansas that demonstrates capacity to provide economic development services to regions as defined by this act, and: (A) Has obtained a ruling from the internal revenue service of the United States department of treasury that such organization is exempt from income taxation under the provisions of section 501(c)(3) or 501(c)(6) of the federal internal revenue code;

(B) has been designated as a certified development company by the United States small business administration;

(C) has been designated as an economic development district by the United States department of commerce’s economic development administration;

(D) has been organized as a regional planning commission under K.S.A. 12-744 et seq., and amendments thereto, or its predecessor, K.S.A. 12-716 et seq., and amendments thereto; or

(E) is incorporated in the state of Kansas as a nonstock, nonprofit corporation;

~~(4)~~ (8) “regional leadership development” means training and education that enable a region to develop community leadership that strengthens the economic and social environment in that region;

(9) “rural community” means any city having a population of fewer than 50,000 or except as otherwise provided, any unincorporated area. Unincorporated areas within any county having a population of more than 100,000 are not eligible; ~~and~~

~~(5)~~ (10) “secretary” means the secretary of the department of commerce;

(11) “small business” means an independently owned and operated business having fewer than 100 full-time equivalent employees;

(12) “taxpayer” means: (A) Any business entity authorized to do business in the state of Kansas which is subject to the state income tax imposed by the provisions of the Kansas income tax act;

(B) any individual subject to the state income tax imposed by the provisions of the Kansas income tax act;

(C) any national banking association, state bank, trust company or savings and loan association paying an annual tax on its net income pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated; or

(D) any insurance company paying the premium tax and privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto; and

(13) “technology improvements” means a project that results in the ability of the region to enhance service in areas, including broadband access, web site creation, wireless internet services, computer programming, computer servers, computer networks, computer databases, electronic training modules, electronic media and any other technological areas deemed eligible by the secretary.

(b) For taxable years commencing after December 31, 2004, any taxpayer contributing to a regional foundation designated by the secretary of commerce, shall be allowed a credit, as provided in this act, against the tax imposed by the Kansas income tax act, the tax on net income of national banking associations, state banks, trust companies or savings and loan associations imposed under article 11 of chapter 79 of the Kansas Statutes Annotated, or the premium tax or privilege fees imposed pur-

suant to K.S.A. 40-252, and amendments thereto, if the proposal of the regional foundation is approved pursuant to this act.

(c) (1) On December 31, 2007, June 30, 2008, and each June 30 thereafter, each regional foundation shall transfer 5% of funds raised in the previous fiscal year from the marketing of the rural business tax credits to be credited to the enterprise facilitation fund created in K.S.A. 2007 Supp. 74-50,155, and amendments thereto.

(2) The secretary of commerce may adopt rules and regulations for the disbursement of regional foundation funds to the enterprise facilitation fund.

(d) (1) The secretary of commerce is hereby authorized to adopt rules and regulations for establishing criteria for evaluating proposals to designate regional foundations as defined by this act with the assistance of the secretary of revenue.

(2) The proposal shall set forth the program to be conducted, why the program is needed, the estimated amount to be invested in the program, composition of the board that shall be making investment decisions, policies stating the organization shall offer services to all counties in that region and the plans for implementing the program.

(3) The secretary of commerce shall select regional foundations pursuant to rules and regulations adopted pursuant to subsection ~~(e)(1)~~ (d)(1) to use the sale of credits to establish regional business development funds.

(4) The total amount of credits allowed under this act shall not exceed \$2,500,000 for fiscal year 2005; \$2,500,000 for fiscal year 2006; and \$2,000,000 per year for fiscal years 2007 through, and including, 2012. Each region as defined by this act shall receive an equal share of this allocation.

(5) Any credits not sold by such regional foundations shall be reclaimed by the secretary from such region and redistributed to other regions that sold all credits previously issued.

(6) The secretary shall annually review and approve or disapprove the proposal of each designated regional foundation for continued eligibility for tax credits. The department of commerce retains that right to reclaim credits in such cases the regional foundation closes or there is demonstrated violation of the organization's policies. Changes to the investment policies of each regional foundation are subject to approval of the secretary.

(e) Each regional foundation shall administer a regional business development fund. The sums generated by contributions to each regional business development fund are intended to be distributed to qualified entrepreneurs for the purposes of economic and leadership development in the region. Such sums shall be allocated by each regional foundation as follows:

(1) Not less than 60% of such funds may be allocated for job creation or retention;

(2) not more than 10% of such funds shall be allocated for administrative costs in overseeing particular projects; and

(3) the remaining funds may be allocated towards other eligible activities as provided in subsection (f) in a manner that fits the region's priorities and needs.

(f) Funds in the regional business development funds may be utilized by the regional foundation for one or more of the following eligible activities:

(1) Business start-ups;

(2) business expansion;

(3) business retention;

(4) business support services;

(5) regional leadership development;

(6) technology improvements; and

(7) administrative services.

(g) All interest generated on idle funds administered by the regional foundation shall be used by the foundation's board in accordance with subsections (e) and (f).

(h) Any regional foundation may increase or decrease the allocation percentages set forth in subsection (e) only upon approval of such adjustments by the secretary.

~~(e)~~ (i) (1) The amount of credit allowed pursuant to this act, shall

not exceed 75% of the total amount contributed during the taxable year by the taxpayer to a regional foundation approved pursuant to this act.

(2) If the amount of the credit allowed by this act, exceeds the taxpayer's income tax liability imposed under the Kansas income tax act, such excess amount shall be refunded to the taxpayer.

(f) (j) The provisions of this act shall be applicable to all taxable years beginning after December 31, 2004.

Sec. 7. K.S.A. 2007 Supp. 12-5242 and 74-50,154 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted

Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE

as amended _____

HOUSE adopted

Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.