



States' Biofuels Statutes

STATE OF KENTUCKY

This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [States' Biofuels Statutory Citations](#). These statutes are placed in reverse chronological order using the date of the most recent amendment to the statute. Many biofuels laws were enacted as amendments to previously passed laws.

Current through the 2013 Legislative Session of the Kentucky General Assembly.

154.20-400 Definitions for KRS 154.20-400 to 154.20-420

As used in KRS 154.20-400 to 154.20-420:

- (1) "Alternative fuels" means:
 - (a) Alternative transportation fuels as defined in KRS 152.715;
 - (b) Synthetic natural gas as defined in KRS 152.715;
 - (c) Biodiesel produced from biomass resources as defined in KRS 152.715 that is used for purposes other than transportation fuel;
 - (d) Ethanol as defined in KRS 141.422;
 - (e) Cellulosic ethanol as defined in KRS 141.422; and
 - (f) Any other fuel that is produced from a renewable or sustainable source;
- (2) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, person, group, city, county, charter county, consolidated local government, urban-county government, or unified local government entity, or other entity engaged in research and development and commercialization related to, or the production of, alternative fuels or renewable energy;
- (3) "Kentucky-based" means a business with its principal place of business in Kentucky or at least fifty-one percent (51%) of its property and payroll located in Kentucky;
- (4) "Qualified company" means an eligible company that may be granted funding pending final

approval;

(5) “Renewable energy” means electricity produced by hydropower, solar power, landfill methane gas, wind power, geothermal, biomass, or other renewable sources; and

(6) “Science and technology organization” means an independent, nonprofit quasi-governmental organization with a statewide mission and demonstrated history of managing complicated programs in the areas of entrepreneurial innovation, research and development, and science and technology advancement.

Credits: HISTORY: 2013 c 116, § 5, eff. 6-25-13; 2007 2nd ex s, c 1, § 45, eff. 8-30-07

154.20-405 Powers of cabinet under KRS 154.20-400 to 154.20-420

(1) The cabinet shall have all the powers and authority, not explicitly prohibited by statute, necessary and convenient to carry out and effectuate the purposes of KRS 154.20-400 to 154.20-420, including but not limited to:

(a) Entering into contracts or agreements necessary or incidental to the performance of its duties, functions, and responsibilities; and

(b) Soliciting, borrowing, accepting, receiving, and expending funds from any public or private source, including but not limited to appropriations of the Commonwealth, grants, or contributions of money, property, labor, or other things of value to be used to carry out the program’s operations, functions, and responsibilities.

(2) The cabinet may expend money in the fund created in KRS 154.20-410 for reasonable administrative expenses directly incurred in carrying out the requirements of KRS 154.20-400 to 154.20-420. It is the intent of the General Assembly that the fund created in KRS 154.20-410 be used, to the fullest extent possible, to directly fund project costs. It is also the intent of the General Assembly that revenues available that are generated through investments of the fund be redeposited in the fund and that those amounts shall be considered in establishing appropriations.

(3) The cabinet shall contract with a science and technology organization to administer the program created in KRS 154.20-400 to 154.20-420. The cabinet shall approve the application criteria, the process for submission of an application, and the structure and type of outside expertise or peer review used in the application review process in the program created in KRS 154.20-400 to 154.20-420.

(4) No member of the cabinet or the science and technology organization or other administering entity, or their employees or outside experts or their immediate family members, shall directly or indirectly financially benefit in any award, contract, or agreement under the program.

(5) The cabinet and the science and technology organization shall submit a joint annual report prior to October 15 to the Governor and the General Assembly detailing its work related to the program created in KRS 154.20-400 to 154.20-420. The annual report shall include but not be limited to

reporting on the progress made in achieving the program's purposes, qualitative and quantitative information concerning the applications received, projects approved and undertaken, companies served, funding amounts invested in each project, and findings and recommendations to increase the program's effectiveness in achieving its purposes.

(6) All records related to the administration of the program created in KRS 154.20-400 to 154.20-420 shall be deemed property of the cabinet and shall be open records and subject to public inspection under KRS 61.870 to 61.884. Any research or information that involves or is a patent, trade secret, or other legally protectable interest shall be exempt from inspection until the intellectual property rights have been fully protected.

Credits: HISTORY: 2007 2nd ex s, c 1, § 46, eff. 8-30-07

154.20-410 Kentucky alternative fuel and renewable energy fund

(1) There is created in the State Treasury the "Kentucky alternative fuel and renewable energy fund" for the purpose of enabling Kentucky-based companies to undertake research and development and commercialization in the area of alternative fuels or renewable energy.

(2) The fund may receive state appropriations, gifts, grants, federal funds, revolving funds, and any other funds both public and private. Moneys deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet. Any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9).

(3) Notwithstanding KRS 45.229, any income earned from the investments along with the unallotted or unencumbered balances in the fund shall not lapse, and shall be deemed a trust and agency account and made available solely for the purposes and benefits of the Kentucky Alternative Fuel and Renewable Energy Fund Program.

Credits: HISTORY: 2013 c 116, § 6, eff. 6-25-13; 2007 2nd ex s, c 1, § 47, eff. 8-30-07

154.20-415 Kentucky Alternative Fuel and Renewable Energy Fund Program; purpose

(1) There is created in the cabinet a Kentucky Alternative Fuel and Renewable Energy Fund Program to provide funding to Kentucky-based companies to undertake research and development and commercialization work in the area of alternative fuels and renewable energy.

(2) The purpose of the program is to:

(a) Accelerate knowledge transfer and technological innovation, improve economic competitiveness, and spur economic growth of Kentucky-based companies involved in the areas of alternative fuels or renewable energy;

(b) Support research and development activities that have clear potential to lead to commercially

successful products, processes, or services in the areas of alternative fuels or renewable energy within a reasonable period of time;

(c) Stimulate growth-oriented alternative fuels and renewable energy enterprises within the Commonwealth;

(d) Encourage partnerships and collaborative projects between private enterprises, Kentucky's public and private colleges and universities, and research organizations in alternative fuels and renewable energy; and

(e) Promote research and development and commercialization activities in alternative fuels and renewable energy that are market-oriented.

Credits: HISTORY: 2013 c 116, § 7, eff. 6-25-13; 2007 2nd ex s, c 1, § 48, eff. 8-30-07

154.20-420 Science and technology organization; duties; funding application process; negotiation of agreements

(1) The science and technology organization shall have the authority to review applications, qualify companies, and certify qualified companies.

(2) The science and technology organization shall develop application criteria and an application process.

(3) The science and technology organization shall focus on providing support to research and development projects that are likely to:

(a) Produce a measurable result and be technically sound;

(b) Lead to innovative technology or new knowledge;

(c) Lead to commercially successful products, processes, or services within a reasonable period of time; or

(d) Show significant potential for stimulating innovation-driven economic growth and a reasonable probability to enhance employment opportunities within the Commonwealth.

(4) An eligible company may submit to the science and technology organization an application for funding. The application shall include but not be limited to the following information:

(a) Verification that the applicant is an eligible company that is Kentucky-based;

(b) A technical research and commercialization plan that is sufficient for outside expert review;

(c) A detailed financial analysis that includes the commitment of resources by the applicant and

others;

(d) Sufficient detail concerning proposed project partners, type and amount of work to be performed by each partner, and expected product or service with estimated costs to be reflected in the negotiated contract or agreement;

(e) A statement of the economic development potential of the project; and

(f) Any other information the science and technology organization may require.

(5) The science and technology organization shall conduct an independent review using internal and external resources to evaluate each application. Following the application review, the science and technology organization shall make a written determination of whether the applicant is a qualified company as defined in KRS 154.20-400.

(6) Before a qualified company is approved for funding, the qualified company shall negotiate an agreement and funding contract that is satisfactory to the science and technology organization with any project partners to undertake the research and development work.

(7) Upon a qualified company's presentation of a legal agreement or contract meeting the conditions under subsection (6) of this section, the science and technology organization shall negotiate the terms for funding with the qualified company and shall enter into a contract with the qualified company if an agreement is reached.

(8) Any agreement shall include a provision that a qualified company shall, at a minimum, match the funding provided through the science and technology organization on a one-to-one dollar ratio for each year of the project. The science and technology organization shall have sole discretion to authorize an in-kind contribution in lieu of part of the match required for the qualified company, if the science and technology organization determines that the financial limitations of the qualified company warrant this authorization.

(9) The science and technology organization may negotiate with the qualified company the ownership and disposition of patents, royalties, all other intellectual property rights, and an equity or related position on behalf of the Kentucky alternative fuel and renewable energy fund for the sole purpose of reinvesting and sustaining a revolving fund to carry out KRS 154.20-400 to 154.20-420.

(10) The science and technology organization, upon approval by the cabinet, shall issue guidelines for statewide notification of the program's availability and a program schedule, including but not limited to an application review cycle including:

(a) A deadline for submission of applications, which shall be at least biennially; and

(b) A deadline for completing the review of applications, which shall not exceed five (5) months after the application submission deadline.

Credits: HISTORY: 2007 2nd ex s, c 1, § 49, eff. 8-30-07