

**CHAPTER 495 (HB 728)**

AN ACT relating to state employee compensation.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

- (1) *There is hereby established an advisory council to be known as the Executive Branch Compensation Advisory Council.*
  - (a) *The council shall consist of three (3) voting members: the state budget director, the secretary of the Governor's Executive Cabinet, and the secretary of the Finance and Administration Cabinet.*
  - (b) *The state budget director shall serve as the chair of the council.*
  - (c) *If a voting member is unable to attend a meeting of the council, he shall designate, in writing, a member of his staff to attend in his place, and such designation shall confer on such designee, for that meeting only, the authority to act, including the right to vote on any matter coming before the council.*
- (2) *The council shall be attached to the Personnel Cabinet for administrative purposes. Personnel Cabinet staff shall provide necessary administrative and operational support for the council. The council may, from time to time, utilize the services of professional and technical personnel employed by other agencies of state government, if the need arises. The council shall meet on a quarterly basis at a time and place to be determined by the council. Additional meetings may be called upon request of two (2) voting members of the council.*
- (3) *The duties of the council shall include the following:*
  - (a) *Advise and make recommendations to the secretary of the Personnel Cabinet on appropriate salaries for the following:*
    1. *The heads of the various departments in the executive branch of state government, with the exception of:*
      - a. *Departments headed by constitutionally elected officers;*
      - b. *The Department of Education;*
      - c. *The Council on Postsecondary Education; and*
      - d. *The Kentucky Authority for Educational Television;*
    2. *The heads of offices, as defined in KRS 12.010;*
    3. *The administrative heads of boards and commissions and for their employees, if they are not covered by the salary schedules set forth in KRS Chapter 16, KRS Chapter 18A, or KRS Chapter 151B, notwithstanding any other statute to the contrary empowering a board, commission, authority, or other administrative body for which the Personnel Cabinet provides personnel and payroll services except for any board governing any of the Kentucky Retirement Systems, the Kentucky Higher Education Assistance Authority, the Kentucky Authority for Educational Television, or the Council on*

*Postsecondary Education to establish, set, or approve the salaries of its administrative head and other employees;*

4. *Requests from boards, commissions, or cabinet heads to approve salary increases in excess of those increases provided other state employees to individuals in the positions listed in paragraphs (a), (b), and (c) of this subsection;*
  - (b) *Advise the secretary of the Personnel Cabinet on requests from agencies to establish or abolish a separate salary schedule, or schedules, reflective of the marketplace need to recruit and hire classified employees in technical or professional fields when the classified service salary schedule is inadequate. A positive recommendation of such requests shall not be granted unless significant credible evidence exists of a job market shortage and an inadequacy of the classified or unclassified salary schedules to recruit and retain competent, qualified applicants for such positions; and*
  - (c) *Recommend that the Personnel Cabinet conduct salary surveys of the executive branch positions outlined in subsection (3)(a)1., 2., and 3. of this section, using state governments in the seven (7) states contiguous to the Commonwealth, other states in the southeastern United States, and private sector employers, where appropriate.*
- (4) *The council's recommendations shall:*
- (a) *Take into consideration the provisions of Section 2 of this Act, if the specific position in question is subject to the provisions of Section 2 of this Act; and*
  - (b) *Not take into consideration the provisions of Section 2 of this Act, if the specific position in question is exempt from the provisions of Section 2 of this Act.*

Section 2. KRS 64.640 is amended to read as follows:

- (1) Except as otherwise provided in subsection (2) of this section, and excepting officers elected by popular vote, employees of the General Assembly, including employees of the Legislative Research Commission, members of boards and commissions, those officers and employees of Kentucky Educational Television exempt from classified service as provided in KRS 18A.115, presidents and employees of the state universities and the state colleges, and persons employed by the commissioner of parks on a temporary basis under KRS 148.026, the Personnel Cabinet shall prepare *schedules*~~[a schedule]~~ of compensation, payable out of the State Treasury, with a minimum~~[and maximum]~~ salary rate, and *other*~~[such intermediate]~~ salary rates as are deemed necessary or advisable, for the office or position of employment of every state officer and employee, including specifically the offices and positions of employment in every constitutional administrative department, statutory administrative department, independent agency, *board, commission* or other unit of state government. *The language of any statute empowering a board, commission, authority, or other administrative body for which the Personnel Cabinet provides personnel and payroll services except for any board governing any of the Kentucky Retirement Systems, the Kentucky Higher Education Assistance Authority, the Kentucky Authority for Educational Television, or the Council on Postsecondary Education to establish, set, or approve the salaries of its administrative head and other employees to the contrary notwithstanding, the establishment or setting of salaries for administrative heads or other employees shall be subject to the approval of the secretary of the Personnel Cabinet. The*~~[Such]~~ *schedules and rates* shall be based upon studies of the duties and responsibilities of the offices and positions

and upon a comparison with rates being paid for similar or comparable services elsewhere, and in the preparation of such schedules, the Personnel Cabinet shall ascertain and record the duties, responsibilities, and authority pertaining to the various offices and positions in the state service, and classify such positions in the manner provided in KRS 18A.030, 18A.035, 18A.110, 18A.130, 18A.135, and 18A.150 to 18A.160. No such schedule shall become effective until it has been approved by the Governor *by executive order*.

- (2) The Governor shall set the compensation payable out of the State Treasury to each officer or position in the state service, which officer or position heads a statutory administrative department, independent agency, or other unit of state government except for those excluded under subsection (1) of this section. Such compensation shall be based upon studies of the duties and responsibilities and classification of the positions by the Governor and upon a comparison with compensation being paid for similar or comparable services elsewhere, provided, however, such compensation shall not exceed the amount provided for compensation to the Governor in KRS 64.480, the provisions of KRS 64.660 to the contrary notwithstanding.
- (3) The compensation payable out of the State Treasury to officers and employees subordinate to any office or position covered by subsection (2) of this section shall not exceed the maximum rate established pursuant to subsection (2) of this section for such office or position, except with respect to physicians as provided in KRS 64.655 and employees of the Public Service Commission of Kentucky whose compensation shall be fixed, within constitutional limits, by the Personnel Cabinet with the approval of the Governor as provided in subsection (1) of this section.
- (4) Nothing in this section shall preclude the allowance of maintenance to officers and employees of the state.

Section 3. KRS 64.690 is amended to read as follows:

- (1) Except as provided in KRS 64.610 and in this section, KRS 64.480 to 64.740 are intended to supersede any existing statute, fixing the compensation, or authorizing any public officer or body to fix the compensation, of any public officer or employee covered by KRS 64.480 to 64.740.
- (2) Any public officer or body which has authority to fix the compensation of any state officer or employee covered by *Section 2 of this Act* ~~[KRS 64.640]~~ shall exercise such authority, subject to the schedule and limits of compensation for the particular office or position prescribed *in Section 2 of this Act* ~~[under KRS 64.640]~~. *The secretary of the Personnel Cabinet shall have the authority to monitor and require compliance with the provisions of Sections 1 to 3 of this Act.*
- (3) KRS 64.480 to 64.740 are not intended to supersede any existing statute, with respect to the compensation of circuit clerks, county clerks, sheriffs, master commissioners, and receivers, and their deputies and assistants, in counties containing a population of seventy thousand (70,000) or more, or property valuation administrators, their deputies, and assistants, in any county.

Section 4. KRS 18A.195 is amended to read as follows:

- (1) A state employee who is authorized to work one (1) or more hours in excess of the prescribed hours of duty shall be granted compensatory leave on an hour-for-hour basis.

Upon the written request of an employee *who is not exempt from the provisions of the Federal Fair Labor Standards Act, 29 U.S.C. sec. 201, et seq.*, an appointing authority may grant compensatory time, in lieu of overtime pay, at the rate of one and one-half (1.5) hours for each hour the employee is authorized to work in excess of forty (40) hours in a work week. An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his compensatory leave in the receiving agency.

- (2) Any employee who leaves state service shall be paid for the balance of unused compensatory time.

**Approved April 21, 2000**