

**CHAPTER 100****(HB 572)**

AN ACT relating to collective bargaining.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

*As used in Sections 1 to 10 of this Act:*

- (1) *"Cabinet" means the Kentucky Labor Cabinet;*
- (2) *"Exclusive representative" means the labor organization which has been designated by the Labor Cabinet as the representative of the majority of police officers or firefighters in appropriate units or has been so recognized by the urban-county government;*
- (3) *"Firefighter" means an employee of an urban-county government engaged in serving the public by providing fire protection, including those covered by KRS Chapter 95;*
- (4) *"Labor organization" means any chartered labor organization of any kind in which police officers or firefighters participate and which exists for the primary purpose of dealing with urban-county governments concerning grievances, labor disputes, wages, rate of pay, hours of employment, or conditions of employment;*
- (5) *"Person" includes one (1) or more individuals, labor organizations, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers;*
- (6) *"Police officer" means an employee, sworn or certified, of an urban-county government who participates in the Law Enforcement Foundation Program Fund provided in KRS 15.410 to 15.510; and*
- (7) *"Secretary" means the secretary of the Labor Cabinet of the Commonwealth of Kentucky.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

- (1) *Police officers and firefighters of an urban-county government shall have, and shall be protected in the exercise of, the right of self-organization, to form, join, or assist any labor organization, to bargain collectively through representatives of their own choosing on questions of wages, hours, and other conditions of employment free from interference, restraint, or coercion.*
- (2) *Labor organizations designated by the cabinet as the representative of the majority of police officers or firefighters in an appropriate unit or recognized by an urban-county government as the representative of the majority of employees in an appropriate unit shall be the exclusive representative for the employees of that unit for the purpose of collective bargaining with respect to rates of pay, wages, hours, and other conditions of employment.*
- (3) *Labor organizations recognized by an urban-county government as the exclusive representative or so designated in accordance with the provisions of this section shall be responsible for representing the interests of all police officers or firefighters in the unit without discrimination.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

*The urban-county government and the labor organization that has been designated as the exclusive representative of police officers or firefighters in an appropriate unit, through appropriate officials or their representatives, shall have the authority and the duty to bargain collectively.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

(1) *Urban-county governments and their representatives and agents are prohibited from:*

- (a) *Interfering, restraining, or coercing police officers or firefighters in the exercise of the rights guaranteed in Section 2 of this Act;*
- (b) *Dominating or interfering with the formation, existence, or administration of any labor organization;*
- (c) *Discriminating in regard to hiring or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization; provided that nothing in this section, or in any other statute of this state, shall preclude an urban-county government from making an agreement with a labor organization to require as a condition of employment membership therein on or after the thirtieth day following the beginning of that employment or on the effective date of the agreement, whichever is the later;*
- (d) *Discharging or otherwise discriminating against an employee because he or she has signed or filed any affidavit, petition, or complaint or given any information or testimony under this section; or*
- (e) *Refusing to bargain collectively in good faith with a labor organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.*

(2) *Labor organizations and their agents are prohibited from:*

- (a) *Restraining or coercing:*
  1. *Police officers or firefighters in the exercise of the right guaranteed in Section 2 of this Act, and*
  2. *An urban-county government in the selection of a representative for the purposes of collective bargaining or the adjustment of grievances; or*
- (b) *Refusing to bargain collectively in good faith with an urban-county government, if they have been designated in accordance with the provisions of this section as the exclusive representative of police officers or firefighters in an appropriate unit.*

(3) *For the purposes of this section, to bargain collectively is to carry out in good faith the mutual obligation of the parties, or their representatives; to meet together at reasonable times, including meetings in advance of the budget-making process; to negotiate in good faith with respect to wages, hours, and other conditions of employment; to negotiate an agreement; to negotiate any question arising under any agreement; and to execute a written contract incorporating any agreement reached, if requested by either party. The obligation shall not be interpreted to compel either party to agree to a proposal, or require either party to make a concession.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

- (1) *Whenever, in accordance with administrative regulations that may be promulgated by the cabinet, a petition has been filed:*
  - (a) *By a police officer, group of police officers, a firefighter, group of firefighters, or any labor organization acting on behalf of thirty percent (30%) of the employees who have signed labor organization affiliation cards and the labor organization showing proof of representation:*
    1. *Alleging that they wish to be represented for collective bargaining by a labor organization as exclusive representative, or*
    2. *Asserting that the labor organization which has been certified or is currently being recognized by the urban-county government as bargaining representative is no longer the representative of the majority of employees in the unit; or*
  - (b) *By an urban-county government alleging that one (1) or more labor organizations has presented to it a claim to be recognized as the representative of the majority of police officers or firefighters in an appropriate unit;*

*The cabinet shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, shall provide for an appropriate hearing upon due notice. If the cabinet finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which labor organization the police officers or firefighters desire to be represented, and shall certify the result thereof to the legislative council of the urban-county government.*

- (2) *The cabinet shall decide in each case, in order to assure police officers and firefighters the fullest freedom in exercising the rights guaranteed by this section, the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours, and other working conditions of the police officers or firefighters involved; the history of collective bargaining; and the desires of the police officers or firefighters.*
- (3) *An election shall not be directed in any bargaining unit or in any subdivision thereof within which in the preceding twelve (12) month period a valid election has been held. The cabinet shall determine who is eligible to vote in the election and shall promulgate administrative regulations governing the election. In any election where none of the choices on the ballot receives a majority, a runoff shall be conducted and the ballot shall provide for the selection between the two (2) choices receiving the largest and the second largest number of valid votes cast in the election. A labor organization which receives the majority of the votes cast in an election shall be certified by the cabinet as exclusive representative of all the police officers or firefighters in the unit.*
- (4) *Nothing in this or any other law shall be construed to prohibit recognition of a labor organization as the exclusive representative by an urban-county government by mutual consent.*
- (5) *No election shall be directed by the cabinet in any bargaining unit where there is in force and effect a valid collective bargaining agreement; provided, however, no collective bargaining agreement shall bar an election upon the petition of persons not parties*

*thereto where more than four (4) years have elapsed since the execution of the agreement or the last timely renewal, whichever was later.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

*Violations of the provisions of Section 4 of this Act shall be deemed to be unfair labor practices remedial by the cabinet in the following manner.*

- (1) Whenever it is charged by an urban-county government or a labor organization that any person has engaged in or is engaging in any unfair labor practices, the cabinet or any hearing officer designated by the cabinet, shall conduct an administrative hearing in accordance with KRS Chapter 13B.*
- (2) If, upon the preponderance of the evidence presented, the cabinet is of the opinion that any person named in the charge has engaged in or is engaging in an unfair labor practice, then it shall issue a final order requiring the person to cease and desist from the unfair labor practice, and to take any affirmative action including reinstatement of police officers or firefighters with or without back pay, as will effectuate the policies of this section. The final order may further require the person to make reports from time to time showing the extent to which he or she has complied with the order. If, upon the preponderance of the evidence presented, the cabinet is not of the opinion that the person named in the charge has engaged in or is engaging in the unfair labor practice, then the cabinet shall issue a final order dismissing the complaint. No final order shall issue based upon any unfair labor practice occurring more than six (6) months prior to the filing of the charge with the cabinet, unless the person aggrieved thereby was prevented from filing the charge by reason of service in the Armed Forces, in which event, the six (6) month period shall be computed from the day of his or her discharge. No final order of the cabinet shall require the reinstatement of any individual as a police officer or firefighter who has been suspended or discharged, or the payment to the individual of any back pay, if the individual was suspended or discharged for cause.*
- (3) Until a final order has been appealed, the cabinet at any time, upon reasonable notice and in the manner that it deems proper, may modify or set aside, in whole or in part, any final order made or issued by it.*
- (4) The cabinet or the charging party may petition for the enforcement of the final order and for appropriate temporary relief or restraining order in the Circuit Court for the county in which the violation occurred.*
- (5) Any person aggrieved by a final order of the cabinet may obtain a review of the final order by filing a petition in the Circuit Court assigned jurisdiction under subsection (4) of this section in accordance with KRS Chapter 13B.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

- (1) If, after a reasonable period, but in no event less than thirty (30) days, of negotiations over the terms of a new collective bargaining agreement or modifications to an existing agreement, the parties to the negotiations are deadlocked, either party or the parties jointly may petition the cabinet, by certified mail, return receipt requested, or by registered mail, to initiate fact-finding.*

- (2) *Upon receipt of a petition to initiate fact-finding, the cabinet shall cause an investigation to determine whether or not the parties are deadlocked in their negotiations. During the course of this investigation, the secretary is empowered to utilize his or her office in an effort to effectuate a settlement between the parties through mediation and conciliation.*
- (3) *Upon completion of the cabinet's investigation, and if a settlement between the parties has still not been reached, the secretary shall within ten (10) days appoint a qualified and disinterested person as the impartial chairman of a three (3) member panel to function as the fact-finders. In addition to the impartial chairman, the other two (2) members of the panel shall be one (1) member named by the labor organization and one (1) member named by the urban-county government, parties to the deadlocked negotiations.*
- (4) *Upon consultation with the other members of the panel, the impartial chairman shall establish dates and places for public hearings. Whenever feasible, public hearings shall be held within the jurisdiction in which the urban-county government is located. The panel may subpoena witnesses, and a written transcript of the hearing shall be made. Upon completion of the hearings, the panel shall, by majority decision, make written findings of fact, recommendations, and opinions to be served on the urban-county government and labor organization parties and released to the public. Expenses incurred by the three (3) member panel in this section shall be paid by the parties involved in the labor dispute.*

SECTION 8. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

- (1) *Any agreement reached by the negotiators shall be reduced to writing and shall be executed by both parties.*
- (2) *An agreement between the urban-county government and a labor organization shall be valid and enforced under its terms when entered into in accordance with the provisions of this section and signed by the mayor of the urban-county government or his or her representative. No publication thereof shall be required to make it effective. The procedure for the making of an agreement between an urban-county government and a labor organization provided by this section shall be the exclusive method of making a valid agreement for police officers or firefighters represented by a labor organization.*
- (3) *Suits for violation of agreements between an urban-county government and a labor organization representing police officers or firefighters may be brought by the parties to the agreement in the Circuit Court of the urban-county government.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

*Upon the written authorization of any police officers or firefighters within a bargaining unit, the urban-county government shall deduct from the payroll of the police officer or firefighter the monthly amount of dues as certified by the secretary of the exclusive bargaining representative, and shall deliver the same to the treasurer of the exclusive bargaining representative.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

*No police officer or firefighter of an urban-county government shall engage in, and no police officer labor organization or firefighter labor organization shall sponsor or condone, any strike.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

*Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, the provisions of Sections 1 to 10 of this Act shall not be construed or interpreted to apply to volunteer firefighters.*

**Approved April 7, 2004**