

CHAPTER 1

(HB 1)

AN ACT relating to right-to-work provisions involving a condition of employment or continuation of employment and declaring an emergency.

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

➔Section 1. KRS 336.130 is amended to read as follows:

- (1) Employees may, free from restraint or coercion by the employers or their agents, associate collectively for self-organization and designate collectively representatives of their own choosing to negotiate the terms and conditions of their employment to effectively promote their own rights and general welfare. Employees, collectively and individually, may strike, engage in peaceful picketing, and assemble collectively for peaceful purposes, *except that no public employee, collectively or individually, may engage in a strike or a work stoppage. Nothing in Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 of this Act shall be construed as altering, amending, granting, or removing the rights of public employees to associate collectively for self-organization and designate collectively representatives of their own choosing to negotiate the terms and conditions of their employment to effectively promote their own rights and general welfare.*
- (2) Neither employers or their agents nor employees or associations, organizations or groups of employees shall engage or be permitted to engage in unfair or illegal acts or practices or resort to violence, intimidation, threats or coercion.
- (3) (a) *Notwithstanding subsection (1) of this section or any provision of the Kentucky Revised Statutes to the contrary, no employee shall be required, as a condition of employment or continuation of employment, to:*
 1. *Become or remain a member of a labor organization;*
 2. *Pay any dues, fees, assessments, or other similar charges of any kind or amount to a labor organization; or*
 3. *Pay to any charity or other third party, in lieu of these payments, any amount equivalent to or pro rata portion of dues, fees, assessments, or other charges required of a labor organization.*
- (b) *As used in this subsection, the term "employee" means any person employed by or suffered or permitted to work for a public or private employer.*
- (4) *The secretary of the Labor Cabinet or his or her representative shall investigate complaints of violations or threatened violations of subsection (3) of this section and may initiate enforcement of a criminal penalty by causing a complaint to be filed with the appropriate local prosecutor and ensure effective enforcement.*
- (5) Except in instances where violence, personal injury, or damage to property have occurred and such occurrence is supported by an affidavit setting forth the facts and circumstances surrounding such incidents, the employees and their agents shall not be restrained or enjoined from exercising the rights granted them in subsection (1) of this section without a hearing first being held, unless the employees or their agents are engaged in a strike in violation of a "no strike" clause in their labor contract.
- (6)(4) Submission of a false affidavit concerning violence, personal injury, or damage to property shall constitute a violation of KRS 523.030. In the absence of any such affidavit alleging violence, personal injury, or damage injunctions shall be issued only by a Circuit Judge or other justice or judge acting as a Circuit Judge pursuant to law.

➔Section 2. KRS 336.180 is amended to read as follows:

As used in *this chapter* ~~[KRS 336.190 and 336.200]~~, unless the context requires otherwise: ~~[;]~~

- (1) The term "labor organization" means any organization of any kind, or any agency or employee representation committee, *association* or *union* ~~[plan, in which employees participate and]~~ which exists for the purpose, in whole or in part, of dealing with employers concerning ~~[grievances, labor disputes,] wages, rates of pay, hours of employment or conditions of work, or other forms of compensation; [;]~~
- (2) *The term "employer" means all persons, firms, associations, corporations, public employers, public school employers, and public colleges, universities, institutions, and education agencies; and*

- (3) *The term "public employee" means an employee of a "public agency" as that term is defined in KRS 61.870(1).*

➔Section 3. KRS 336.990 is amended to read as follows:

- (1) Upon proof that any person employed by the Labor Cabinet as a labor inspector has taken any part in any strike, lockout or similar labor dispute, the person shall forfeit his or her office.
- (2) The following civil penalties shall be imposed, in accordance with the provisions in KRS 336.985, for violations of the provisions of this chapter:
 - (a) Any person who violates KRS 336.110 *or Section 1 of this Act* shall for each offense be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000);
 - (b) Any corporation, association, organization, or person that violates KRS 336.190 and 336.200 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense. Each act of violation, and each day during which such an agreement remains in effect, shall constitute a separate offense; and
 - (c) Any employer who violates the provisions of KRS 336.220 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation.
- (3) *Any labor organization, employer, or other person who directly or indirectly violates subsection (3) of Section 1 of this Act shall be guilty of a Class A misdemeanor.*
- (4) *Any person aggrieved as a result of any violation or threatened violation of subsection (3) of Section 1 of this Act may seek abatement of the violation or threatened violation by petitioning a court of competent jurisdiction for injunctive relief and shall be entitled to costs and reasonable attorney fees if he or she prevails in the action.*
- (5) *Any person injured as a result of any violation or threatened violation of subsection (3) of Section 1 of this Act may recover all damages resulting from the violation or threatened violation and shall be entitled to costs and reasonable attorney fees if he or she prevails in the action.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

Any agreement, understanding, or practice, written or oral, implied or expressed, between any labor organization and employer which violates an employee's rights as set forth in subsection (3) of Section 1 of this Act shall be unlawful and void, except that subsection (3) of Section 1 of this Act shall not apply to:

- (1) *Employers and employees covered by the Federal Railway Labor Act;*
- (2) *Federal employers and employees;*
- (3) *Employers and employees on exclusive federal enclaves;*
- (4) *Employers and employees where it would conflict or be preempted by federal law; or*
- (5) *Any agreement between employers and employees or labor organization entered into before the effective date of this Act, but the provisions of subsection (3) of Section 1 of this Act shall apply to any new contract or an extension or renewal of any existing agreement entered into on or after the effective date of this Act.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

A public employer or a labor organization representing public employees shall not deduct membership dues of an employee organization, association, or union from the wages, earnings, or compensation of a public employee without the express written consent of the public employee. This consent shall be made prior to any deductions being made and may be revoked by the public employee at any time by written notice to the employer.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The legislative body of any city, county, consolidated local government, urban-county government, charter county government, or unified local government shall not have the authority to adopt or enforce any ordinance, policy, or resolution that is in conflict with Section 1 of this Act.

➔Section 7. KRS 67A.6904 is amended to read as follows:

- (1) *Except as provided in Section 1 of this Act, urban-county governments and their representatives and agents are prohibited from:*

- (a) Interfering, restraining, or coercing police officers, firefighter personnel, firefighters, or corrections personnel in the exercise of the rights guaranteed in KRS 67A.6902;
 - (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, firefighter personnel, firefighters, or corrections personnel in the exercise of the right guaranteed in KRS 67A.6902; 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, firefighter personnel, firefighters, or corrections personnel 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 8. KRS 67C.406 is amended to read as follows:

- (1) ***Except as provided in Section 1 of this Act***, consolidated local governments, their representatives, or their agents are prohibited from:
- (a) Interfering, restraining, or coercing police officers in the exercise of the rights guaranteed in KRS 67C.402;
 - (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 a consolidated local 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 or their agents are prohibited from:
- (a) Restraining or coercing:

1. Police officers in the exercise of the right guaranteed in KRS 67C.402; and
 2. A consolidated local 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 a consolidated local government, if they have been designated in accordance with the provisions of this section as the exclusive representative of police officers 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 9. KRS 70.262 is amended to read as follows:

- (1) ***Except as provided in Section 1 of this Act***, in any county containing a consolidated local government or city of the first class that has adopted a merit system under KRS 70.260 to 70.273, deputies subject to the merit system may organize, form, join, or participate in organizations in order to engage in lawful concerted activities for the purpose of collective bargaining or other mutual aid and protection, and to bargain collectively through a representative of their own free choice. Deputies shall also have the right to refrain from any or all of these activities but shall be subject to the lawful provisions of any collective bargaining agreement entered into under this section. Strikes by deputies of any collective bargaining unit shall be prohibited at any time.
- (2) ***Except as provided in Section 1 of this Act***, in any county containing a consolidated local government or city of the first class that has adopted a merit system under KRS 70.260 to 70.273, the sheriff shall contract with a representative of the deputies described in subsection (1) of this section employed by the sheriff where the representative has established representation of a majority of the deputies, with respect to wages, hours, and terms and conditions of employment, including execution of a written contract incorporating any agreement reached between the sheriff and the representative. The sheriff shall not be required to bargain over matters of inherent managerial policy.

➔Section 10. KRS 78.470 is amended to read as follows:

Except as provided in Section 1 of this Act, in any county in the Commonwealth of Kentucky, which has a population of 300,000 or more and which has adopted the merit system, the county employees in the classified service as police may organize, form, join or participate in organizations in order to engage in lawful concerted activities for the purpose of collective bargaining or other mutual aid and protection, and to bargain collectively through representatives of their own free choice. Such employees shall also have the right to refrain from any or all such activities. Strikes by said members of any such collective bargaining unit shall be prohibited at any time.

➔Section 11. KRS 78.480 is amended to read as follows:

Except as provided in Section 1 of this Act, in any county in the Commonwealth of Kentucky which has a population of 300,000 or more and which has adopted the merit system for its police force, the fiscal court may contract with representatives of the police employed by said county with respect to wages, hours, terms and conditions of employment, including execution of a written contract incorporating any agreement reached between the fiscal court and representatives of the police. The fiscal court shall not be required to bargain over matters of inherent managerial policy.

➔Section 12. KRS 345.050 is amended to read as follows:

- (1) ***Except as provided in Section 1 of this Act***, public employers, their representatives or their agents are prohibited from:
 - (a) Interfering, restraining or coercing firefighters in the exercise of the rights guaranteed in KRS 345.030;
 - (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 chapter, or in any other statute of this state, shall preclude a public employer 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 such employment or on the effective date of such agreement, whichever is the later};~~

- (d) Discharging or otherwise discriminating against an employee because he has signed or filed any affidavit, petition or complaint or given any information or testimony under this chapter;
 - (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 or their agents are prohibited from:
- (a) Restraining or coercing:
 - 1. Firefighters in the exercise of the right guaranteed in subsection (1) of KRS 345.030, and
 - 2. A public employer in the selection of his representative for the purposes of collective bargaining or the adjustment of grievances;
 - (b) Refusing to bargain collectively in good faith with a public employer, if they have been designated in accordance with the provisions of this chapter as the exclusive representative of firefighters in an appropriate unit.
- (3) For the purposes of this chapter, 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 13. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

➔Section 14. Whereas it is critical to the economy and citizens of Kentucky to attract new business and investment into the Commonwealth as soon as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

➔Section 15. This Act may be cited as the "Kentucky Right to Work Act."

Signed by Governor January 9, 2017.