

CHAPTER 133

(SB 7)

AN ACT relating to the administration of payroll systems and declaring an emergency.

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

➔Section 1. KRS 336.180 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) *"Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his or her consent for any other person to receive contributions or make expenditures with a view to bringing about his or her nomination or election to public office, except federal office;*
- (2) *"Committee" includes the following:*
 - (a) *"Campaign committee," which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election to any state, county, city, or district office, but does not include an entity established solely by a candidate which is managed solely by a candidate and a campaign treasurer and whose name is generic in nature, such as "Friends of (the candidate)," and does not reflect that other persons have structured themselves as a committee, designated officers of the committee, and assigned responsibilities and duties to each officer with the purpose of managing a campaign to support or oppose a candidate in an election;*
 - (b) *"Caucus campaign committee," which means members of any caucus groups who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election to any state, county, city, or district office, or a committee in Kentucky or in any other state. Caucus campaign committees include but are not limited to:*
 1. *The House Democratic caucus campaign committee;*
 2. *The House Republican caucus campaign committee;*
 3. *The Senate Democratic caucus campaign committee;*
 4. *The Senate Republican caucus campaign committee; and*
 5. *Subdivisions of the state executive committee of a minor political party, which serve the same function as the above-named committees, as determined by administrative regulations promulgated by the Kentucky Registry of Election Finance;*
 - (c) *"Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or ballot measure if that committee receives or expends money in excess of one thousand dollars (\$1,000);*
 - (d) *"Permanent committee," which means a group of individuals, including an association, committee, or organization, other than a campaign committee, political issues committee, inaugural committee, caucus campaign committee, or a party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose expressly advocating the election or defeat of one (1) or more clearly identified candidates, slates of candidates, or political parties, which functions on a regular basis throughout the year;*
 - (e) *An executive committee of a political party; and*
 - (f) *"Inaugural committee," which means one (1) or more persons who receive contributions and make expenditures in support of inauguration activities for any candidate or slate of candidates elected to any state, county, city, or district office;*
- (3) *"Contributing organization" means a group which merely contributes to candidates, slates of candidates, campaign committees, caucus campaign committees, or executive committees from time to time from funds*

derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself;

(4) *"Contribution" means any:*

- (a) *Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his or her agent, a slate of candidates, its authorized agent, a committee, or contributing organization but shall not include a loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, candidate, slate of candidates, or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum in any one (1) election which, when combined with all other contributions the individual makes to a candidate, his or her agent, a slate of candidates, its agent, a committee, or a contributing organization, exceeds the contribution limits provided in KRS 121.150;*
- (b) *Payment by any person other than the candidate, his or her authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or a contributing organization, of compensation for the personal services of another person which are rendered to a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;*
- (c) *Goods, advertising, or services with a value of more than one hundred dollars (\$100) in the aggregate in any one (1) election which are furnished to a candidate, slate of candidates, committee, or contributing organization or for inauguration activities without charge, or at a rate which is less than the rate normally charged for the goods or services; or*
- (d) *Payment by any person other than a candidate, his or her authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars (\$100) in the aggregate in any one (1) election which are utilized by a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;*

(5) *"Election" means any primary, regular, or special election. Each primary, regular, or special election shall be considered a separate election;*

(6) *"Electioneering communications" means:*

- (a) *Any communication broadcast by television or radio, printed in a newspaper or on a billboard, directly mailed or delivered by hand to personal residences, or in telephone calls made to personal residences, or otherwise distributed that:*
 - 1. *Unambiguously refers to any candidate for any state, county, city, or district office, or to any ballot measure;*
 - 2. *Is broadcast, printed, mailed, delivered, made, or distributed within thirty (30) days before a primary election or sixty (60) days before a general election; and*
 - 3. *Is broadcast to, printed in a newspaper, distributed to, mailed to or delivered by hand to, in telephone calls made to, or otherwise distributed to an audience that includes members of the electorate for such public office or the electorate associated with the ballot containing the ballot measure.*
- (b) *"Electioneering communications" does not include:*
 - 1. *Any news articles, editorial endorsements, opinions or commentary, writings, or letters to the editor printed in a newspaper, magazine, or other periodical not owned by or controlled by a candidate, committee, or political party;*
 - 2. *Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate, committee, or political party;*
 - 3. *Any communication by persons made in the regular course and scope of their business or any communication made by a membership organization solely to members of such an organization and their families;*

4. *Any communication that refers to any candidate only as part of the popular name of a bill or statute; or*
5. *A communication that constitutes a contribution or independent expenditure as defined in this section;*

~~{(1) The term "labor organization" means any organization of any kind, or any agency or employee representation committee, association or union which exists for the purpose, in whole or in part, of dealing with employers concerning wages, rates of pay, hours of employment or conditions of work, or other forms of compensation;}~~

~~(7){(2)} "Employer" [The term "employer"] means all persons, firms, associations, corporations, public employers, public school employers, and public colleges, universities, institutions, and education agencies;{ and}~~

(8) *"Fundraiser" means an individual who directly solicits and secures contributions on behalf of a candidate or slate of candidates for a statewide-elected state office, or an office in a jurisdiction with a population in excess of two hundred thousand (200,000) residents;*

(9) *"Independent expenditure" means the expenditure of money or other things of value for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates, and which is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them, and which is not made in concert with, or at the request or suggestion of any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them;*

(10) *"Labor organization" means any organization of any kind, or any agency or employee representation committee, association or union which exists for the purpose, in whole or in part, of dealing with employers concerning wages, rates of pay, hours of employment or conditions of work, or other forms of compensation. Except, for the purposes of Section 1, 2, 3, 4, 5, 6, 7, or 8 of this Act, "labor organization" shall not include organizations which primarily represent public employees working in the protective vocations of active law enforcement officer, jail and corrections officer, or active fire suppression or prevention personnel;*

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

(11) *"Political activities" means any contribution or independent expenditure made:*

- (a) *To any committee;*
- (b) *To any contributing organization;*
- (c) *To any candidate;*
- (d) *To any slate of candidates;*
- (e) *To any fundraiser;*
- (f) *For any electioneering communications;*
- (g) *For any testimonial affair;*
- (h) *In any manner intended to influence the outcome of any election;*
- (i) *In any manner intended to otherwise promote or support the defeat of any:*
 1. *Candidate;*
 2. *Slate of candidates; or*
 3. *Ballot measure; or*
- (j) *In any manner intended to advance any position held by any person or entity other than the public employee regarding any:*
 1. *Election;*
 2. *Candidate;*
 3. *Slate of candidates; or*

4. *Ballot measure;*

(12) *"Public employee" means an employee of a "public agency" as that term is defined in KRS 61.870;*

(13) *"Slate of candidates" means:*

- (a) *Between the time a certificate or petition of nomination has been filed for a candidate for the office of Governor under KRS 118.365 and the time the candidate designates a running mate for the office of Lieutenant Governor under KRS 118.126, a slate of candidates consists of the candidate for the office of Governor; and*
- (b) *After that candidate has designated a running mate under KRS 118.126, that same slate of candidates consists of that same candidate for the office of Governor and the candidate's running mate for the office of Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates; and*

(14) *"Testimonial affair" means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to a state, city, county, or district political office designed to raise funds for the purpose of influencing the outcome of an election, otherwise promoting support for, or the defeat of, any candidate, slate of candidates, or ballot measure.*

➔Section 2. KRS 336.134 is amended to read as follows:

A public employer shall not deduct from the wages, earnings, or compensation of any public employee for:

- (1) *Any dues, fees, assessments, or other charges to be held for, transferred to, or paid over to a labor organization; or*
- (2) *Political activities*

~~*[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 3. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

A public employer shall not assist, directly or indirectly, any labor organization, person, or other legal entity with the collection of dues, fees, assessments, or other charges, or political activities or personal information related to those activities.

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

Sections 1, 2, and 3 of this Act shall not apply to any deductions from a public employee's wages, compensation, or earnings made by the public employer in accordance with any joint wage agreement or collective bargaining contract entered into, opted into, modified, renewed, or extended prior to the effective date of this Act. However, any joint wage agreement or collective bargaining contract entered into, opted into, modified, renewed, or extended after the effective date of this Act, as well as any deductions made to a public employee's wages, compensation, or earnings made in accordance with those joint wage agreements or collective bargaining contracts or otherwise made after the effective date of this Act, shall comply with Sections 2 and 3 of this Act.

➔Section 5. KRS 336.135 is amended to read as follows:

- (1) As used in this section, "employee" means any person employed by or suffered or permitted to work for a public or private employer, except "employee" shall not mean any person covered by the Federal Railway Labor Act and the National Labor Relations Act.
- (2) An employee shall not be enrolled as a member of a labor organization unless the employee has affirmatively requested membership in writing.
- (3) A sum shall not be withheld from the earnings of any employee for the purpose of paying union dues or other fees paid by members of a labor organization or employees who are non-members except upon the written or electronic authorization of the employee member or employee non-member, *unless the employer is a public employer, in which case Section 2 of this Act applies to that employer.*
- (4) The requirements in this section shall not be waived by any member or non-member of a labor organization, nor required to be waived as a condition of obtaining or maintaining employment.

- (5) Signing or refraining from signing the authorization set forth in subsections (2) and (3) of this section shall not be made a condition of obtaining or maintaining employment.
- (6) (a) A labor organization shall maintain financial records substantially similar to and no less comprehensive than the records required to be maintained under 29 U.S.C. sec. 431(b).
- (b) These records shall be kept in a searchable electronic format and provided to every employee it represents.
- (c) The records and the data or summary by which the records can be verified, explained, or clarified shall be kept for a period of not less than five (5) years.
- (d) *A labor organization composed of public employees shall transmit financial records detailing the labor organization's quarterly expenses to its members on an annual basis.*
- (7) This section shall not apply to any agreement between employers and employees or labor organizations entered into before January 9, 2017, but any such agreement entered into, opted in, renewed, or extended on or after January 9, 2017, and which violates this section shall be unlawful and void.
- (8) This section shall be known as the "Paycheck Protection Act."

➔Section 6. KRS 161.158 is amended to read as follows:

- (1) (a) Each district board of education may form its employees into a group or groups or recognize existing groups for the purpose of obtaining the advantages of group life, disability, medical, and dental insurance, or any group insurance plans to aid its employees including the state employee health insurance group as described in KRS 18A.225 to 18A.2287, as long as the employees continue to be employed by the board of education. Medical and dental group insurance plans obtained under authority of this section may include insurance benefits for the families of the insured group or groups of employees. Any district board of education may pay all or part of the premium on the policies, and may deduct from the salaries of the employees that part of the premium which is to be paid by them and may contract with the insurer to provide the above benefits. As permitted in KRS 160.280(4), board members shall be eligible to participate in any group medical or dental insurance provided by the district for employees.
- (b) If a district board of education participates in the state employee health insurance program, as described in KRS 18A.225 to 18A.2287, for its active employees and terminates participation and there is a state appropriation approved by the General Assembly for the employer's contribution for active employees' health insurance coverage, neither the board of education nor the employees shall receive the state-funded contribution after termination from the state employee health insurance program.
- (c) If a district board of education participates in the state employee health insurance program as described in KRS 18A.225 to 18A.2287 for its active employees, all district employees who are required to be offered health insurance coverage for purposes of, and in accordance with, the federal Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, shall be eligible for the state-funded contribution appropriated by the General Assembly for the employer's contribution for active employees' health insurance coverage.
- (2) (a) Each district board of education shall adopt policies or regulations which will provide for:
1. a. Deductions from salaries of its employees or groups of employees whenever a request is presented to the board by said employees or groups thereof.
 - b. The deductions shall be made from salaries earned in at least eight (8) different pay periods.
 - c. The deductions may be made for, but are not limited to, membership dues, tax-sheltered annuities, and group insurance premiums.
 - d. The district board is prohibited from deducting membership dues of an employee organization, membership organization, or labor organization ~~without the express written consent of the employee. Express written consent of the employee may be revoked in writing by the employee at any time.~~ This provision shall apply to contracts entered into, opted in, extended or renewed on or after January 9, 2017.

- e. With the exception of membership dues, the board shall not be required to make more than one (1) remittance of amounts deducted during a pay period for a separate type of deduction; and
- 2. Deductions from payments for the per diem and actual expenses provided under KRS 160.280(1) to members of the district board of education whenever a request is presented by a board member to the board. The deductions may be made for but not be limited to membership dues, health insurance purchases, scholarship funds, and contributions to a political action committee.
 - (b) The deductions under paragraph (a)1. and 2. of this subsection shall be remitted to the appropriate organization or association as specified by the employees within thirty (30) days following the deduction, provided the district has received appropriate invoices or necessary documentation.
 - (c) Health insurance, life insurance, and tax-sheltered annuities shall be interpreted as separate types of deductions. When amounts have been correctly deducted and remitted by the board, the board shall bear no further responsibility or liability for subsequent transaction.
- (3) Payments and deductions made by the board of education under the authority of this section are presumed to be for services rendered and for the benefit of the common schools, and the payments and deductions shall not affect the eligibility of any school system to participate in the public school funding program as established in KRS Chapter 157.

➔Section 7. KRS 164.365 is amended to read as follows:

- (1) Anything in any statute of the Commonwealth to the contrary notwithstanding, the power over and control of appointments, qualifications, salaries, and compensation payable out of the State Treasury or otherwise, promotions, and official relations of all employees of Eastern Kentucky University, Western Kentucky University, Murray State University, Northern Kentucky University, and Morehead State University, as provided in KRS 164.350 and 164.360, and of Kentucky State University and the Kentucky Community and Technical College System, shall be under the exclusive jurisdiction of the respective governing boards of each of the institutions named.
- (2) The board of regents for the Kentucky Community and Technical College System shall develop personnel rules for the governing of its members, officers, agents, and employees by June 30, 1998. The board shall adopt interim policies to govern employees hired from July 1, 1997, until the permanent rules are adopted.
- (3) Upon receipt of a written authorization from an employee of the Kentucky Community and Technical College System, the board shall deduct dues from the employee's paycheck for employee membership organizations, *except that no deduction shall be made for labor organization membership dues, fees, assessments, or contributions for political activities*. Dues shall be deducted at a rate established by the organization, and shall be discontinued upon written notification by an employee to both the system and the employee organization. On a quarterly basis, the Kentucky Community and Technical College System shall provide to each employee membership organization an updated list that includes the names and home addresses of the employees who are having dues deducted from their paychecks for the purpose of maintaining membership in that organization.

➔Section 8. KRS 336.990 is amended to read as follows:

- (1) Upon proof that any person employed by the Education and 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 336.130 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;
 - (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; and

- (d) Any labor organization who violates KRS 336.135 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.
 - (e) *Any public employer or labor organization that violates Section 1, 2, 3, 4, 5, 6, or 7 of this Act 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.*
- (3) Any labor organization, employer, or other person who directly or indirectly violates KRS 336.130(3) shall be guilty of a Class A misdemeanor.
 - (4) Any person aggrieved as a result of any violation or threatened violation of KRS 336.130(3) 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 KRS 336.130(3) 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 9. Whereas the Commonwealth has a compelling and immediate interest in avoiding the appearance that public resources are being used to support partisan political activity, an emergency is declared to exist, and this Act takes effect upon passage and approval by the Governor, or upon its otherwise becoming a law.

Veto Overridden March 29, 2023.