

1 AN ACT relating to the Labor Cabinet.

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

3 ➔Section 1. KRS 189.635 is amended to read as follows:

- 4 (1) The Justice and Public Safety Cabinet, Department of Kentucky State Police, shall
5 be responsible for maintaining a reporting system for all vehicle accidents which
6 occur within the Commonwealth. Such accident reports shall be utilized for such
7 purposes as will improve the traffic safety program in the Commonwealth involving
8 the collection, processing, storing, and dissemination of such data and the
9 establishment of procedures by administrative regulations to insure that uniform
10 definitions, classifications, and other federal requirements are in compliance.
- 11 (2) Any person operating a vehicle on the highways of this state who is involved in an
12 accident resulting in fatal or nonfatal personal injury to any person or damage to the
13 vehicle rendering the vehicle inoperable shall be required to immediately notify a
14 law enforcement officer having jurisdiction. In the event the operator fails to notify
15 or is incapable of notifying a law enforcement officer having jurisdiction, such
16 responsibility shall rest with the owner of the vehicle or any occupant of the vehicle
17 at the time of the accident. A law enforcement officer having jurisdiction shall
18 investigate the accident and file a written report of the accident with his law
19 enforcement agency.
- 20 (3) Every law enforcement agency whose officers investigate a vehicle accident of
21 which a report must be made as required in this chapter shall file a report of the
22 accident with the Department of Kentucky State Police within ten (10) days after
23 investigation of the accident upon forms supplied by the department.
- 24 (4) Any person operating a vehicle on the highways of this state who is involved in an
25 accident resulting in any property damage exceeding five hundred dollars (\$500) in
26 which an investigation is not conducted by a law enforcement officer shall file a
27 written report of the accident with the Department of Kentucky State Police within

- 1 ten (10) days of occurrence of the accident upon forms provided by the department.
- 2 (5) All accident reports filed with the Department of Kentucky State Police in
3 compliance with subsection (4) above shall not be considered open records under
4 KRS 61.872 to 61.884 and shall remain confidential except that the department may
5 disclose the identity of a person involved in an accident when his or her identity is
6 not otherwise known or when he or she denies his or her presence at an accident.
7 Except as provided in subsection (9) of this section, all other accident reports
8 required by this section, and the information contained in the reports, shall be
9 confidential and exempt from public disclosure except when produced pursuant to a
10 properly executed subpoena or court order, or except pursuant to subsection (8) of
11 this section. These reports shall be made available only to the parties to the
12 accident, the parents or guardians of a minor who is party to the accident, and
13 insurers or their written designee for insurance business purposes of any party who
14 is the subject of the report, or to the attorneys of the parties.
- 15 (6) Except as provided for in this subsection, the department shall not release accident
16 reports for a commercial purpose. The department may, as a matter of public safety,
17 contract with an outside entity and release vehicle damage data extracted from
18 accident reports to such an entity if the data is used solely for the purpose of
19 providing the public a means of determining a vehicle's accident history. The
20 department may further contract with a third party to provide electronic access to
21 reports for persons and entities who are entitled to such reports under subsections
22 (5) and (9) of this section.
- 23 (7) The department shall promulgate administrative regulations in accordance with
24 KRS Chapter 13A to set out a fee schedule for accident reports made available
25 pursuant to subsections (5), (8), and (9) of this section. These fees shall be in
26 addition to those charged to the public for records produced under KRS Chapter 61.
- 27 (8) The report shall be made available to a news-gathering organization, solely for the

1 purpose of publishing or broadcasting the news. The news-gathering organization
 2 shall not use or distribute the report, or knowingly allow its use or distribution, for a
 3 commercial purpose other than the news-gathering organization's publication or
 4 broadcasting of the information in the report. A newspaper, periodical, or radio or
 5 television station shall not be held to have used or knowingly allowed the use of the
 6 report for a commercial purpose merely because of its publication or broadcast.

7 (9) The report shall be made available without subpoena to any party to litigation who
 8 files with the department a request for the report and includes a copy of the first
 9 page of a District or Circuit Court clerk-stamped complaint naming all parties.

10 (10) *The report shall be made available without subpoena to the Department of*
 11 *Workplace Standards in the Labor Cabinet if the accident report is pertinent to*
 12 *an occupational safety and health investigation.*

13 (11) The motor vehicle insurers of any train engineer or other train crew member
 14 involved in an accident on a railroad while functioning in their professional capacity
 15 shall be prohibited from obtaining a copy of any accident report filed on the
 16 accident under this section without written consent from the individual the company
 17 insures. Insurance companies issuing motor vehicle policies in the Commonwealth
 18 shall be prohibited from raising a policyholder's rates solely because the
 19 policyholder, in his or her professional capacity, is a train engineer or other train
 20 crew member involved in an accident on a railroad.

21 ➔Section 2. KRS 336.020 is amended to read as follows:

22 (1) The Department of Workplace Standards shall be headed by a commissioner
 23 appointed by the Governor in accordance with KRS 12.040 and shall be divided for
 24 administrative purposes into the Division of ~~[Employment—Standards,]~~
 25 Apprenticeship~~[and Mediation]~~, the Division of Occupational Safety and Health
 26 Compliance, the Division of Occupational Safety and Health Education and
 27 Training, and the Division of *Wages and Hours*~~[Workers' Compensation Funds].~~

1 Each of these divisions shall be headed by a director appointed by the secretary and
 2 approved by the Governor in accordance with KRS 12.050.

3 (2) The Department of Workers' Claims shall be headed by a commissioner~~[who is~~
 4 ~~nominated by the Workers' Compensation Nominating Commission,]~~ appointed by
 5 the Governor, and confirmed by the Senate in accordance with KRS ~~[342.213 and]~~
 6 342.228. The department shall be divided for administrative purposes into the
 7 Office of Administrative Law Judges, the Office of General Counsel for Workers'
 8 Claims, the Division of Claims Processing, the Division of Information and
 9 Research, the Division of Security and Compliance, and the Division of
 10 Ombudsman and Workers' Compensation Specialist Services. The Office of
 11 Administrative Law Judges shall be headed by a chief administrative law judge
 12 appointed in accordance with KRS 342.230. Each division in the department shall
 13 be headed by a director appointed by the secretary~~[commissioner]~~ and approved by
 14 the Governor in accordance with KRS 12.050 ~~[and 342.230]~~. The Workers'
 15 Compensation Board shall be~~[following agencies are]~~ attached to the Department
 16 of Workers' Claims for administrative purposes only~~;~~

17 ~~(a) Workers' Compensation Board;~~

18 ~~(b) Workers' Compensation Advisory Council; and~~

19 ~~(c) Workers' Compensation Nominating Commission].~~

20 (3) The Office of General Counsel for the Labor Cabinet and the Division of
 21 Management Services are attached to the Office of the Secretary of the Labor
 22 Cabinet.

23 ➔Section 3. KRS 337.010 is amended to read as follows:

24 (1) As used in this chapter, unless the context requires otherwise:

25 (a) "Commissioner" means the commissioner of the Department of Workplace
 26 Standards under the direction and supervision of the secretary of the Labor
 27 Cabinet;

- 1 (b) "Department" means the Department of Workplace Standards in the Labor
2 Cabinet;
- 3 (c) 1. "Wages" includes any compensation due to an employee by reason of his
4 or her employment, including salaries, commissions, vested vacation
5 pay, overtime pay, severance or dismissal pay, earned bonuses, and any
6 other similar advantages agreed upon by the employer and the employee
7 or provided to employees as an established policy. The wages shall be
8 payable in legal tender of the United States, ~~for~~ checks on banks, **direct**
9 **deposits, or debit cards** convertible into cash on demand at full face
10 value, subject to the allowances made in this chapter. **However, an**
11 **employee may not be charged an activation fee or any other fee to**
12 **access wages if a debit card is used for wages;**
- 13 2. For the purposes of calculating hourly wage rates for scheduled overtime
14 for professional firefighters, as defined in KRS 95A.210(5), "wages"
15 shall not include the distribution to qualified professional firefighters by
16 local governments of supplements received from the Firefighters
17 Foundation Program Fund. For the purposes of calculating hourly wage
18 rates for unscheduled overtime for professional firefighters, as defined in
19 KRS 95A.210(6), "wages" shall include the distribution to qualified
20 professional firefighters by local governments of supplements received
21 from the Firefighters Foundation Program Fund;
- 22 (d) "Employer" is any person, either individual, corporation, partnership, agency,
23 or firm who employs an employee and includes any person, either individual,
24 corporation, partnership, agency, or firm acting directly or indirectly in the
25 interest of an employer in relation to an employee; and
- 26 (e) "Employee" is any person employed by or suffered or permitted to work for an
27 employer.

1 (2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless
2 the context requires otherwise:

3 (a) "Employee" is any person employed by or suffered or permitted to work for an
4 employer, but shall not include:

5 1. Any individual employed in agriculture;

6 2. Any individual employed in a bona fide executive, administrative,
7 supervisory, or professional capacity, or in the capacity of outside
8 salesman, or as an outside collector as the terms are defined by
9 administrative regulations of the commissioner;

10 3. Any individual employed by the United States;

11 4. Any individual employed in domestic service in or about a private home.

12 The provisions of this section shall include individuals employed in
13 domestic service in or about the home of an employer where there is
14 more than one (1) domestic servant regularly employed;

15 5. Any individual classified and given a certificate by the commissioner
16 showing a status of learner, apprentice, worker with a disability,
17 sheltered workshop employee, and student under administrative
18 procedures and administrative regulations prescribed and promulgated
19 by the commissioner. This certificate shall authorize employment at the
20 wages, less than the established fixed minimum fair wage rates, and for
21 the period of time fixed by the commissioner and stated in the certificate
22 issued to the person;

23 6. Employees of retail stores, service industries, hotels, motels, and
24 restaurant operations whose average annual gross volume of sales made
25 for business done is less than ninety-five thousand dollars (\$95,000) for
26 the five (5) preceding years exclusive of excise taxes at the retail level or
27 if the employee is the parent, spouse, child, or other member of his or

- 1 her employer's immediate family;
- 2 7. Any individual employed as a baby-sitter in an employer's home, or an
3 individual employed as a companion by a sick, convalescing, or elderly
4 person or by the person's immediate family, to care for that sick,
5 convalescing, or elderly person and whose principal duties do not
6 include housekeeping;
- 7 8. Any individual engaged in the delivery of newspapers to the consumer;
- 8 9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A,
9 30A, and 18A provided that the secretary of the Personnel Cabinet shall
10 have the authority to prescribe by administrative regulation those
11 emergency employees, or others, who shall receive overtime pay rates
12 necessary for the efficient operation of government and the protection of
13 affected employees;
- 14 10. Any employee employed by an establishment which is an organized
15 nonprofit camp, religious, or nonprofit educational conference center, if
16 it does not operate for more than seven (7) months in any calendar year;
- 17 11. Any employee whose function is to provide twenty-four (24) hour
18 residential care on the employer's premises in a parental role to children
19 who are primarily dependent, neglected, and abused and who are in the
20 care of private, nonprofit childcaring facilities licensed by the Cabinet
21 for Health and Family Services under KRS 199.640 to 199.670; or
- 22 12. Any individual whose function is to provide twenty-four (24) hour
23 residential care in his or her own home as a family caregiver and who is
24 approved to provide family caregiver services to an adult with a
25 disability through a contractual relationship with a community board for
26 mental health or individuals with an intellectual disability established
27 under KRS 210.370 to 210.460, or is certified or licensed by the Cabinet

- 1 for Health and Family Services to provide adult foster care;
- 2 (b) "Agriculture" means farming in all its branches, including cultivation and
3 tillage of the soil; dairying; production, cultivation, growing, and harvesting of
4 any agricultural or horticultural commodity; raising of livestock, bees,
5 furbearing animals, or poultry; and any practice, including any forestry or
6 lumbering operations, performed on a farm in conjunction with farming
7 operations, including preparation and delivery of produce to storage, to
8 market, or to carriers for transportation to market;
- 9 (c) "Gratuity" means voluntary monetary contribution received by an employee
10 from a guest, patron, or customer for services rendered;
- 11 (d) "Tipped employee" means any employee engaged in an occupation in which
12 he or she customarily and regularly receives more than thirty dollars (\$30) per
13 month in tips; and
- 14 (e) "U.S.C." means the United States Code.
- 15 (3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:
- 16 (a) "Construction" includes construction, reconstruction, improvement,
17 enlargement, alteration, or repair of any public works project by contract fairly
18 estimated to cost more than two hundred fifty thousand dollars (\$250,000). No
19 public works project, if procured under a single contract and subject to the
20 requirements of this section, may be divided into multiple contracts of lesser
21 value to avoid compliance with the provisions of this section;
- 22 (b) "Contractor" and "subcontractor" include any superintendent, foreman, or
23 other authorized agent of any contractor or subcontractor who is in charge of
24 the construction of the public works or who is in charge of the employment or
25 payment of the employees of the contractor or subcontractor who are
26 employed in performing the work to be done or being done by the contractor
27 or subcontractor under the particular contract with any public authority;

- 1 (c) 1. "Locality" shall be determined by the commissioner. The commissioner
2 may designate more than one (1) county as a single locality, but if more
3 than one (1) county is designated, the multicounty locality shall not
4 extend beyond the boundaries of a state Senatorial district. The
5 commissioner shall not designate less than an entire county as a locality.
6 If there is not available in the locality a sufficient number of competent,
7 skilled laborers, workmen, and mechanics to efficiently and properly
8 construct the public works, "locality" shall include any other locality
9 nearest the one in which the work of construction is to be performed and
10 from which such available skilled laborers, workmen, and mechanics
11 may be obtained in sufficient number to perform the work; and
- 12 2. "Locality" with respect to contracts advertised or awarded by the
13 Transportation Cabinet of this state shall be determined by the secretary
14 of the Transportation Cabinet. The secretary may designate any number
15 of counties as constituting a single locality. The secretary may also
16 designate all counties of the Commonwealth as a single locality, but he
17 or she shall not designate less than an entire county as a locality;
- 18 (d) "Public authority" means any officer, board, or commission of this state, or
19 any political subdivision or department thereof in the state, or any institution
20 supported in whole or in part by public funds, including publicly owned or
21 controlled corporations, authorized by law to enter into any contract for the
22 construction of public works and any nonprofit corporation funded to act as an
23 agency and instrumentality of the government agency in connection with the
24 construction of public works, and any "private provider", as defined in KRS
25 197.500, which enters into any contract for the construction of an "adult
26 correctional facility", as defined in KRS 197.500; and
- 27 (e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches,

1 sewage disposal plants, waterworks, and all other structures or work,
 2 including "adult correctional facilities", as defined in KRS 197.500,
 3 constructed under contract with any public authority.

4 (4) If the federal government or any of its agencies furnishes by loans or grants any part
 5 of the funds used in constructing public works, and if the federal government or its
 6 agencies prescribe predetermined prevailing minimum wages to be paid to
 7 mechanics, workmen, and laborers employed in the construction of the public
 8 works, and if KRS 337.505 to 337.550 is also applicable, those wages in each
 9 classification which are higher shall prevail.

10 ➔Section 4. KRS 336.050 is amended to read as follows:

11 **(1)** The secretary in person or by representative shall:

12 **(a)**~~[(1)]~~ Investigate and ascertain the wages of all employees employed in this
 13 state;

14 **(b)**~~[(2)]~~ Enter the place of business or employment of any employer of
 15 employees to examine and inspect all books, registers, payrolls, and other
 16 records that have a bearing upon the question of wages of employees and to
 17 ascertain whether the orders of the secretary are complied with; **and**

18 **(c)**~~[(3)]~~ Require from the employer a full and correct statement in writing when
 19 the secretary or the secretary's representative considers it necessary, of the
 20 wages paid to all employees in his or her employment. ~~and~~

21 **(2)**~~[(4)]~~ **The secretary in person or by representative may** ~~[upon complaint,]~~
 22 prosecute any violation of any of the provisions of any law which it is his or her
 23 duty to administer or enforce. The secretary may enter into reciprocal agreements
 24 with the corresponding labor agency or official of any other state to collect in the
 25 other state claims assigned to the secretary. To the extent allowed by a reciprocal
 26 agreement, the secretary may maintain actions in the courts of another state to
 27 collect claims and judgments for wages and assign claims and judgments to the

1 agency or official of another state for collection. If a reciprocal agreement extends a
2 like comity to cases arising in the Commonwealth, the secretary may maintain
3 actions in the courts of the Commonwealth to collect claims and judgments for
4 wages arising in the other state in the same manner and to the same extent that
5 actions are authorized when arising in the Commonwealth.

6 ➔Section 5. KRS 337.070 is amended to read as follows:

7 All employers who employ ten (10) or more and pay their employees by check or
8 otherwise, making deductions from the salaries and wages due said employees, shall state
9 specifically the amount for which the deductions are made, and each such employer at the
10 time of payment of salary or wage to each employee shall furnish the employee a *paper*
11 *or electronic* statement giving the amount of each deduction and the general purpose for
12 which the deduction is made. *If an employer provides an electronic statement, then the*
13 *employer shall provide access to a computer and printer for review and printing by the*
14 *employee.*

15 ➔Section 6. KRS 342.0011 is amended to read as follows:

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

- 17 (1) "Injury" means any work-related traumatic event or series of traumatic events,
18 including cumulative trauma, arising out of and in the course of employment which
19 is the proximate cause producing a harmful change in the human organism
20 evidenced by objective medical findings. "Injury" does not include the effects of the
21 natural aging process, and does not include any communicable disease unless the
22 risk of contracting the disease is increased by the nature of the employment.
23 "Injury" when used generally, unless the context indicates otherwise, shall include
24 an occupational disease and damage to a prosthetic appliance, but shall not include
25 a psychological, psychiatric, or stress-related change in the human organism, unless
26 it is a direct result of a physical injury;
- 27 (2) "Occupational disease" means a disease arising out of and in the course of the

- 1 employment;
- 2 (3) An occupational disease as defined in this chapter shall be deemed to arise out of
3 the employment if there is apparent to the rational mind, upon consideration of all
4 the circumstances, a causal connection between the conditions under which the
5 work is performed and the occupational disease, and which can be seen to have
6 followed as a natural incident to the work as a result of the exposure occasioned by
7 the nature of the employment and which can be fairly traced to the employment as
8 the proximate cause. The occupational disease shall be incidental to the character of
9 the business and not independent of the relationship of employer and employee. An
10 occupational disease need not have been foreseen or expected but, after its
11 contraction, it must appear to be related to a risk connected with the employment
12 and to have flowed from that source as a rational consequence;
- 13 (4) "Injurious exposure" shall mean that exposure to occupational hazard which would,
14 independently of any other cause whatsoever, produce or cause the disease for
15 which the claim is made;
- 16 (5) "Death" means death resulting from an injury or occupational disease;
- 17 (6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the
18 liability of employers under this chapter and includes a self-insurer;
- 19 (7) "Self-insurer" is an employer who has been authorized under the provisions of this
20 chapter to carry his own liability on his employees covered by this chapter;
- 21 (8) "Department" means the Department of Workers' Claims in the Labor Cabinet;
- 22 (9) "Commissioner" means the commissioner of the Department of Workers' Claims
23 **under the direction and supervision of the secretary of the Labor Cabinet;**
- 24 (10) "Board" means the Workers' Compensation Board;
- 25 (11) (a) "Temporary total disability" means the condition of an employee who has not
26 reached maximum medical improvement from an injury and has not reached a
27 level of improvement that would permit a return to employment;

- 1 (b) "Permanent partial disability" means the condition of an employee who, due to
2 an injury, has a permanent disability rating but retains the ability to work; and
- 3 (c) "Permanent total disability" means the condition of an employee who, due to
4 an injury, has a permanent disability rating and has a complete and permanent
5 inability to perform any type of work as a result of an injury, except that total
6 disability shall be irrebuttably presumed to exist for an injury that results in:
- 7 1. Total and permanent loss of sight in both eyes;
 - 8 2. Loss of both feet at or above the ankle;
 - 9 3. Loss of both hands at or above the wrist;
 - 10 4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at
11 or above the wrist;
 - 12 5. Permanent and complete paralysis of both arms, both legs, or one (1)
13 arm and one (1) leg;
 - 14 6. Incurable insanity or imbecility; or
 - 15 7. Total loss of hearing;
- 16 (12) "Income benefits" means payments made under the provisions of this chapter to the
17 disabled worker or his dependents in case of death, excluding medical and related
18 benefits;
- 19 (13) "Medical and related benefits" means payments made for medical, hospital, burial,
20 and other services as provided in this chapter, other than income benefits;
- 21 (14) "Compensation" means all payments made under the provisions of this chapter
22 representing the sum of income benefits and medical and related benefits;
- 23 (15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical
24 rehabilitation services, medicines, and fittings for artificial or prosthetic devices;
- 25 (16) "Person" means any individual, partnership, limited partnership, limited liability
26 company, firm, association, trust, joint venture, corporation, or legal representative
27 thereof;

- 1 (17) "Wages" means, in addition to money payments for services rendered, the
2 reasonable value of board, rent, housing, lodging, fuel, or similar advantages
3 received from the employer, and gratuities received in the course of employment
4 from persons other than the employer as evidenced by the employee's federal and
5 state tax returns;
- 6 (18) "Agriculture" means the operation of farm premises, including the planting,
7 cultivation, producing, growing, harvesting, and preparation for market of
8 agricultural or horticultural commodities thereon, the raising of livestock for food
9 products and for racing purposes, and poultry thereon, and any work performed as
10 an incident to or in conjunction with the farm operations, including the sale of
11 produce at on-site markets and the processing of produce for sale at on-site markets.
12 It shall not include the commercial processing, packing, drying, storing, or canning
13 of such commodities for market, or making cheese or butter or other dairy products
14 for market;
- 15 (19) "Beneficiary" means any person who is entitled to income benefits or medical and
16 related benefits under this chapter;
- 17 (20) "United States," when used in a geographic sense, means the several states, the
18 District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the
19 territories of the United States;
- 20 (21) "Alien" means a person who is not a citizen, a national, or a resident of the United
21 States or Canada. Any person not a citizen or national of the United States who
22 relinquishes or is about to relinquish his residence in the United States shall be
23 regarded as an alien;
- 24 (22) "Insurance carrier" means every insurance carrier or insurance company authorized
25 to do business in the Commonwealth writing workers' compensation insurance
26 coverage and includes the Kentucky Employers Mutual Insurance Authority and
27 every self-insured group operating under the provisions of this chapter;

1 (23) (a) "Severance or processing of coal" means all activities performed in the
2 Commonwealth at underground, auger, and surface mining sites; all activities
3 performed at tipple or processing plants that clean, break, size, or treat coal;
4 and all activities performed at coal loading facilities for trucks, railroads, and
5 barges. Severance or processing of coal shall not include acts performed by a
6 final consumer if the acts are performed at the site of final consumption.

7 (b) "Engaged in severance or processing of coal" shall include all individuals,
8 partnerships, limited partnerships, limited liability companies, corporations,
9 joint ventures, associations, or any other business entity in the Commonwealth
10 which has employees on its payroll who perform any of the acts stated in
11 paragraph (a) of this subsection, regardless of whether the acts are performed
12 as owner of the coal or on a contract or fee basis for the actual owner of the
13 coal. A business entity engaged in the severance or processing of coal,
14 including but not limited to administrative or selling functions, shall be
15 considered wholly engaged in the severance or processing of coal for the
16 purpose of this chapter. However, a business entity which is engaged in a
17 separate business activity not related to coal, for which a separate premium
18 charge is not made, shall be deemed to be engaged in the severance or
19 processing of coal only to the extent that the number of employees engaged in
20 the severance or processing of coal bears to the total number of employees.
21 Any employee who is involved in the business of severing or processing of
22 coal and business activities not related to coal shall be prorated based on the
23 time involved in severance or processing of coal bears to his total time;

24 (24) "Premium" for every self-insured group means any and all assessments levied on its
25 members by such group or contributed to it by the members thereof. For special
26 fund assessment purposes, "premium" also includes any and all membership dues,
27 fees, or other payments by members of the group to associations or other entities

1 used for underwriting, claims handling, loss control, premium audit, actuarial, or
2 other services associated with the maintenance or operation of the self-insurance
3 group;

4 (25) (a) "Premiums received" for policies effective on or after January 1, 1994, for
5 insurance companies means direct written premiums as reported in the annual
6 statement to the Department of Insurance by insurance companies, except that
7 "premiums received" includes premiums charged off or deferred, and, on
8 insurance policies or other evidence of coverage with provisions for
9 deductibles, the calculated cost for coverage, including experience
10 modification and premium surcharge or discount, prior to any reduction for
11 deductibles. The rates, factors, and methods used to calculate the cost for
12 coverage under this paragraph for insurance policies or other evidence of
13 coverage with provisions for deductibles shall be the same rates, factors, and
14 methods normally used by the insurance company in Kentucky to calculate the
15 cost for coverage for insurance policies or other evidence of coverage without
16 provisions for deductibles, except that, for insurance policies or other
17 evidence of coverage with provisions for deductibles effective on or after
18 January 1, 1995, the calculated cost for coverage shall not include any
19 schedule rating modification, debits, or credits. The cost for coverage
20 calculated under this paragraph by insurance companies that issue only
21 deductible insurance policies in Kentucky shall be actuarially adequate to
22 cover the entire liability of the employer for compensation under this chapter,
23 including all expenses and allowances normally used to calculate the cost for
24 coverage. For policies with provisions for deductibles with effective dates of
25 May 6, 1993, through December 31, 1993, for which the insurance company
26 did not report premiums and remit special fund assessments based on the
27 calculated cost for coverage prior to the reduction for deductibles, "premiums

1 received" includes the initial premium plus any reimbursements invoiced for
2 losses, expenses, and fees charged under the deductibles. The special fund
3 assessment rates in effect for reimbursements invoiced for losses, expenses, or
4 fees charged under the deductibles shall be those percentages in effect on the
5 effective date of the insurance policy. For policies covering leased employees
6 as defined in KRS 342.615, "premiums received" means premiums calculated
7 using the experience modification factor of each lessee as defined in KRS
8 342.615 for each leased employee for that portion of the payroll pertaining to
9 the leased employee.

10 (b) "Direct written premium" for insurance companies means the gross premium
11 written less return premiums and premiums on policies not taken but
12 including policy and membership fees.

13 (c) "Premium," for policies effective on or after January 1, 1994, for insurance
14 companies means all consideration, whether designated as premium or
15 otherwise, for workers' compensation insurance paid to an insurance company
16 or its representative, including, on insurance policies with provisions for
17 deductibles, the calculated cost for coverage, including experience
18 modification and premium surcharge or discount, prior to any reduction for
19 deductibles. The rates, factors, and methods used to calculate the cost for
20 coverage under this paragraph for insurance policies or other evidence of
21 coverage with provisions for deductibles shall be the same rates, factors, and
22 methods normally used by the insurance company in Kentucky to calculate the
23 cost for coverage for insurance policies or other evidence of coverage without
24 provisions for deductibles, except that, for insurance policies or other
25 evidence of coverage with provisions for deductibles effective on or after
26 January 1, 1995, the calculated cost for coverage shall not include any
27 schedule rating modifications, debits, or credits. The cost for coverage

1 calculated under this paragraph by insurance companies that issue only
2 deductible insurance policies in Kentucky shall be actuarially adequate to
3 cover the entire liability of the employer for compensation under this chapter,
4 including all expenses and allowances normally used to calculate the cost for
5 coverage. For policies with provisions for deductibles with effective dates of
6 May 6, 1993, through December 31, 1993, for which the insurance company
7 did not report premiums and remit special fund assessments based on the
8 calculated cost for coverage prior to the reduction for deductibles, "premium"
9 includes the initial consideration plus any reimbursements invoiced for losses,
10 expenses, or fees charged under the deductibles.

11 (d) "Return premiums" for insurance companies means amounts returned to
12 insureds due to endorsements, retrospective adjustments, cancellations,
13 dividends, or errors;

14 (26) "Insurance policy" for an insurance company or self-insured group means the term
15 of insurance coverage commencing from the date coverage is extended, whether a
16 new policy or a renewal, through its expiration, not to exceed the anniversary date
17 of the renewal for the following year;

18 (27) "Self-insurance year" for a self-insured group means the annual period of
19 certification of the group created pursuant to KRS 342.350(4) and 304.50-010;

20 (28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1)
21 shall be the projected value of the employer's workers' compensation claims for the
22 next calendar year as calculated by the commissioner using generally-accepted
23 actuarial methods as follows:

24 (a) The base period shall be the earliest three (3) calendar years of the five (5)
25 calendar years immediately preceding the calendar year for which the
26 calculation is made. The commissioner shall identify each claim of the
27 employer which has an injury date or date of last injurious exposure to the

1 cause of an occupational disease during each one (1) of the three (3) calendar
2 years to be used as the base, and shall assign a value to each claim. The value
3 shall be the total of the indemnity benefits paid to date and projected to be
4 paid, adjusted to current benefit levels, plus the medical benefits paid to date
5 and projected to be paid for the life of the claim, plus the cost of medical and
6 vocational rehabilitation paid to date and projected to be paid. Adjustment to
7 current benefit levels shall be done by multiplying the weekly indemnity
8 benefit for each claim by the number obtained by dividing the statewide
9 average weekly wage which will be in effect for the year for which the
10 premium is being calculated by the statewide average weekly wage in effect
11 during the year in which the injury or date of the last exposure occurred. The
12 total value of the claims using the adjusted weekly benefit shall then be
13 calculated by the commissioner. Values for claims in which awards have been
14 made or settlements reached because of findings of permanent partial or
15 permanent total disability shall be calculated using the mortality and interest
16 discount assumptions used in the latest available statistical plan of the
17 advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The
18 sum of all calculated values shall be computed for all claims in the base
19 period;

20 (b) The commissioner shall obtain the annual payroll for each of the three (3)
21 years in the base period for each employer carrying his own risk from records
22 of the department and from the records of the Office of Employment and
23 Training, Education and Workforce Development Cabinet. The commissioner
24 shall multiply each of the three (3) years of payroll by the number obtained by
25 dividing the statewide average weekly wage which will be in effect for the
26 year in which the premium is being calculated by the statewide average
27 weekly wage in effect in each of the years of the base period;

- 1 (c) The commissioner shall divide the total of the adjusted claim values for the
2 three (3) year base period by the total adjusted payroll for the same three (3)
3 year period. The value so calculated shall be multiplied by 1.25 and shall then
4 be multiplied by the employer's most recent annualized payroll, calculated
5 using records of the department and the Office of Employment and Training
6 data which shall be made available for this purpose on a quarterly basis as
7 reported, to obtain the premium for the next calendar year for assessment
8 purposes under KRS 342.122;
- 9 (d) For November 1, 1987, through December 31, 1988, premium for each
10 employer carrying its own risk shall be an amount calculated by the board
11 pursuant to the provisions contained in this subsection and such premium
12 shall be provided to each employer carrying its own risk and to the funding
13 commission on or before January 1, 1988. Thereafter, the calculations set
14 forth in this subsection shall be performed annually, at the time each employer
15 applies or renews its application for certification to carry its own risk for the
16 next twelve (12) month period and submits payroll and other data in support
17 of the application. The employer and the funding commission shall be notified
18 at the time of the certification or recertification of the premium calculated by
19 the commissioner, which shall form the employer's basis for assessments
20 pursuant to KRS 342.122 for the calendar year beginning on January 1
21 following the date of certification or recertification;
- 22 (e) If an employer having fewer than five (5) years of doing business in this state
23 applies to carry its own risk and is so certified, its premium for the purposes of
24 KRS 342.122 shall be based on the lesser number of years of experience as
25 may be available including the two (2) most recent years if necessary to create
26 a three (3) year base period. If the employer has less than two (2) years of
27 operation in this state available for the premium calculation, then its premium

- 1 shall be the greater of the value obtained by the calculation called for in this
2 subsection or the amount of security required by the commissioner pursuant to
3 KRS 342.340(1);
- 4 (f) If an employer is certified to carry its own risk after having previously insured
5 the risk, its premium shall be calculated using values obtained from claims
6 incurred while insured for as many of the years of the base period as may be
7 necessary to create a full three (3) year base. After the employer is certified to
8 carry its own risk and has paid all amounts due for assessments upon
9 premiums paid while insured, the employer shall be assessed only upon the
10 premium calculated under this subsection;
- 11 (g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated
12 as set forth in this subsection; and
- 13 (h) Notwithstanding any other provision of this subsection, the premium of any
14 employer authorized to carry its own risk for purposes of assessments due
15 under this chapter shall be no less than thirty cents (\$0.30) per one hundred
16 dollars (\$100) of the employer's most recent annualized payroll for employees
17 covered by this chapter;
- 18 (29) "SIC code" as used in this chapter means the Standard Industrial Classification
19 Code contained in the latest edition of the Standard Industrial Classification Manual
20 published by the Federal Office of Management and Budget;
- 21 (30) "Investment interest" means any pecuniary or beneficial interest in a provider of
22 medical services or treatment under this chapter, other than a provider in which that
23 pecuniary or investment interest is obtained on terms equally available to the public
24 through trading on a registered national securities exchange, such as the New York
25 Stock Exchange or the American Stock Exchange, or on the National Association of
26 Securities Dealers Automated Quotation System;
- 27 (31) "Managed health care system" means a health care system that employs gatekeeper

- 1 providers, performs utilization review, and does medical bill audits;
- 2 (32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists,
3 podiatrists, and osteopathic and chiropractic practitioners acting within the scope of
4 their license issued by the Commonwealth;
- 5 (33) "Objective medical findings" means information gained through direct observation
6 and testing of the patient applying objective or standardized methods;
- 7 (34) "Work" means providing services to another in return for remuneration on a regular
8 and sustained basis in a competitive economy;
- 9 (35) "Permanent impairment rating" means percentage of whole body impairment caused
10 by the injury or occupational disease as determined by the "Guides to the Evaluation
11 of Permanent Impairment";
- 12 (36) "Permanent disability rating" means the permanent impairment rating selected by an
13 administrative law judge times the factor set forth in the table that appears at KRS
14 342.730(1)(b); and
- 15 (37) "Guides to the Evaluation of Permanent Impairment" means, except as provided in
16 KRS 342.262:
- 17 (a) The fifth edition published by the American Medical Association; and
- 18 (b) For psychological impairments, Chapter 12 of the second edition published by
19 the American Medical Association.
- 20 ➔Section 7. KRS 342.122 is amended to read as follows:
- 21 (1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose
22 of funding and prefunding the liabilities of the special fund, financing the
23 administration and operation of the Kentucky Workers' Compensation
24 Funding Commission, and financing the expenditures for all programs in the
25 Labor Cabinet, except the Division of ~~{Employment—Standards,}~~
26 Apprenticeship ***and the Division of Wages and Hours***~~[-and Mediation]~~ in the
27 Department of Workplace Standards, as reflected in the enacted budget of the

1 Commonwealth and enacted by the General Assembly, the funding
2 commission shall impose a special fund assessment rate of nine percent (9%)
3 upon the amount of workers' compensation premiums received on and after
4 January 1, 1997, through December 31, 1997, by every insurance carrier
5 writing workers' compensation insurance in the Commonwealth, by every self-
6 insured group operating under the provisions of KRS 342.350(4) and Chapter
7 304, and against the premium, as defined in KRS 342.0011, of every employer
8 carrying his or her own risk.

9 (b) The funding commission shall, for calendar year 1998 and thereafter, establish
10 for the special fund an assessment rate to be assessed against all premium
11 received during that calendar year which shall produce enough revenue to
12 amortize on a level basis the unfunded liability of the special fund as of June
13 30 preceding January 1 of each year, for the period remaining until December
14 31, 2029. The interest rate to be used in this calculation shall reflect the
15 funding commission's investment experience to date and the current
16 investment policies of the commission. This assessment shall be imposed
17 upon the amount of workers' compensation premiums received by every
18 insurance carrier writing workers' compensation insurance in the
19 Commonwealth, by every self-insured group operating under the provisions of
20 KRS 342.350(4) and Chapter 304, and against the premium, as defined in
21 KRS 342.0011, of every employer carrying its own risk. On or before October
22 1 of each year, the commission shall notify each insurance carrier writing
23 workers' compensation insurance in the Commonwealth, every group of self-
24 insured employers, and each employer carrying its own risk, of the rates which
25 shall become effective on January 1 of each year, unless modified by the
26 General Assembly.

27 (c) All assessments imposed by this section shall be paid to the Kentucky

1 Workers' Compensation Funding Commission and shall be credited to the
2 benefit reserve fund within the Kentucky Workers' Compensation Funding
3 Commission.

4 (d) The assessments imposed in this chapter shall be in lieu of all other
5 assessments or taxes on workers' compensation premiums.

6 (2) These assessments shall be paid quarterly not later than the thirtieth day of the
7 month following the end of the quarter in which the premium is received. Receipt
8 shall be considered timely through actual physical receipt or by postmark of the
9 United States Postal Service. Employers carrying their own risk and employers
10 defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal
11 quarterly installments.

12 (3) The assessments imposed by this section may be collected by the insurance carrier
13 from the insured. However, the insurance carrier shall not collect from the employer
14 any amount exceeding the assessments imposed pursuant to this section. If the
15 insurance carrier collects the assessment from an insured, the assessment shall be
16 collected at the same time and in the same proportion as the premium is collected.
17 The assessment for an insurance policy or other evidence of coverage providing a
18 deductible may be collected in accordance with this chapter on a premium amount
19 that equates to the premium that would have applied without the deductible. Each
20 statement from an insurance carrier presented to an insured reflecting premium and
21 assessment amounts shall clearly identify and distinguish the amount to be paid for
22 premium and the amount to be paid for assessments. No insurance carrier shall
23 collect from an insured an amount in excess of the assessment percentages imposed
24 by this chapter. The assessment for an insurance policy or other evidence of
25 coverage providing a deductible may be collected in accordance with this chapter on
26 a premium amount that equates to the premium that would have applied without the
27 deductible. The percentages imposed by this chapter for an insurance policy issued

1 by an insurance company shall be those percentages in effect on the annual effective
2 date of the policy, regardless of the date that the premium is actually received by the
3 insurance company.

4 (4) A self-insured group may elect to report its premiums and to have its assessments
5 computed in the same manner as insurance companies. This election may not be
6 rescinded for at least ten (10) years, nor may this election be made a second time for
7 at least another ten (10) years, except that the board of directors of the funding
8 commission may, at its discretion, waive the ten (10) year ban on a case-by-case
9 basis after formal petition has been made to the funding commission by a self-
10 insured group.

11 (5) The funding commission, as part of the collection and auditing of the special fund
12 assessments required by this section, shall annually require each insurance carrier
13 and each self-insured group to provide a list of employers which it has insured or
14 which are members and the amount collected from each employer. Additionally, the
15 funding commission shall require each entity paying a special fund assessment to
16 report the SIC code for each employer and the amount of premium collected from
17 each SIC code. An insurance carrier or self-insured group may require its insureds
18 or members to furnish the SIC code for each of their employees. However, the
19 failure of any employer to furnish said codes shall not relieve the insurance carrier
20 or self-insured group from the obligation to furnish same to the funding
21 commission. The Office of Employment and Training, Education and Workforce
22 Development Cabinet, is hereby directed to make available the SIC codes assigned
23 in its records to specific employers to aid in the reporting and recording of the
24 special fund assessment data.

25 (6) Each self-insured employer, self-insured group, or insurance carrier shall provide
26 any information and submit any reports the Department of Revenue or the funding
27 commission may require to effectuate the provisions of this section. In addition, the

1 funding commission may enter reciprocal agreements with other governmental
2 agencies for the exchange of information necessary to effectuate the provisions of
3 this section.

4 (7) The special fund shall be required to maintain a central claim registry of all claims
5 to which it is named a party, giving each such claim a unique claim number and
6 thereafter recording the status of each claim on a current basis. The registry shall be
7 established by January 26, 1988, for all claims on which payments were made since
8 July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all
9 claim files in the possession of the special fund.

10 (8) The fund heretofore designated as the subsequent claim fund is abolished, and there
11 is substituted therefor the special fund as set out by this section, and all moneys and
12 properties owned by the subsequent claim fund are transferred to the special fund.

13 (9) Notwithstanding any other provisions of this section or this chapter to the contrary,
14 the total amount of funds collected pursuant to the assessment rates adopted by the
15 funding commission shall not be limited to the provisions of this section.

16 (10) All assessment rates imposed for periods prior to January 1, 1997, under KRS
17 342.122 shall forever remain applicable to premiums received on policies with
18 effective dates prior to January 1, 1997, by every insurance carrier writing workers'
19 compensation insurance in the Commonwealth, by every self-insured group
20 operating under the provision of KRS 342.350(4) and Chapter 304, and against the
21 premium, as defined in KRS 342.0011, of every employer carrying its own risk.

22 ➔Section 8. KRS 342.213 is amended to read as follows:

23 (1) The Governor shall make all appointments to the board, and appoint the
24 administrative law judges ~~and the commissioner~~ of the Department of Workers'
25 Claims, subject to the consent of the Senate in accordance with KRS 11.160, and in
26 accordance with this section, KRS 342.215~~, 342.228,~~ and 342.230 by choosing
27 from names presented to him or her by the Workers' Compensation Nominating

1 Commission.

2 (2) The Workers' Compensation Nominating Commission shall consist of seven (7)
3 members appointed by the Governor as follows:

4 (a) Two (2) members shall be attorneys experienced in the practice of workers'
5 compensation, one (1) of whom customarily represents claimants, and one (1)
6 of whom customarily represents employers. Both shall serve terms of two (2)
7 years, but their successors shall be appointed to terms of four (4) years;

8 (b) 1. One (1) member of the political party having the largest number of
9 registered voters and one (1) member of the political party having the
10 second largest number of registered voters shall serve a term of three (3)
11 years; and

12 2. Two (2) members of the political party having the largest number of
13 registered voters and one (1) member of the political party having the
14 second largest number of registered voters shall serve a term of four (4)
15 years.

16 3. Thereafter, as each term expires, the vacancy so created shall be filled by
17 an appointee from the same political party for a term of four (4) years;

18 (c) Appointments to fill the unexpired term of a member shall be for the
19 remainder of the term; and

20 (d) The members shall annually select a chairman of the nominating commission.

21 (3) Notwithstanding the provisions of subsection (2) of this section, at least three (3)
22 members of the Workers' Compensation Nominating Commission shall be
23 individuals who directly derive no earned income from the workers' compensation
24 program. In order to satisfy the requirement of this subsection, the Governor may
25 remove any existing member of the Workers' Compensation Nominating
26 Commission and replace that member with an individual who does not derive
27 earned income from the workers' compensation program. On or before March 1,

1 1997, the Governor shall submit to the Senate a list of the members of the
2 commission identifying the positions they fill and the terms they shall serve in
3 accordance with the provisions of this section.

4 (4) The commissioner shall monitor the workload of the administrative law judges and,
5 whenever a vacancy occurs, determine whether filling the position is necessary to
6 expeditious resolution of claims brought under this chapter. One hundred twenty
7 (120) days prior to the expiration of the terms of the administrative law judges, and
8 when a vacancy occurs under other circumstances, the commissioner shall certify to
9 the Workers' Compensation Nominating Commission that filling the position is
10 necessary and the Workers' Compensation Nominating Commission shall act to fill
11 only such positions as have been certified as necessary by the commissioner.

12 (5) (a) The Workers' Compensation Nominating Commission shall consult with the
13 commissioner, chief administrative law judge, and a member of the Workers'
14 Compensation Board as to the performance in office of the administrative law
15 judges. The Workers' Compensation Nominating Commission may
16 recommend retention of any sitting administrative law judge, or present to the
17 Governor the names of three (3) qualified individuals nominated for the
18 position. The Workers' Compensation Nominating Commission shall report
19 its recommendation for retention to the Governor no later than thirty (30) days
20 after receipt from the commissioner of certification of the necessity to fill the
21 position and shall render to the Governor its list of nominees to fill vacancies
22 within sixty (60) days of receipt of the commissioner's certification. The name
23 of an individual who has been rejected by the Governor when recommended
24 for retention shall not be presented thereafter as a nominee for the same
25 position. No sitting administrative law judge shall be nominated to fill more
26 than one (1) vacancy except for separate vacancies as an administrative law
27 judge.

1 (b) Within thirty (30) days of receipt of the recommendation, the Governor may
2 reject recommendations of retention, in which event the Workers'
3 Compensation Nominating Commission shall, within thirty (30) days,
4 reconvene and present a list of the names of three (3) nominees for each
5 position for which a recommendation for retention has been rejected by the
6 Governor.

7 ~~(6) [The Governor shall appoint the commissioner of the Department of Workers'~~
8 ~~Claims from a list of three (3) names submitted by the nominating~~
9 ~~commission. The list submitted to the Governor shall contain names of~~
10 ~~individuals who meet the qualifications and requirements contained in KRS~~
11 ~~342.228. The commissioner shall be subject to Senate confirmation in~~
12 ~~accordance with KRS 11.160.~~

13 ~~(7)~~ (a) The Governor shall appoint the members of the Workers' Compensation
14 Board. The nominating commission shall present to the Governor a list of
15 three (3) candidates for appointment to the board no later than thirty (30) days
16 prior to the expiration of a board member's term. For the purpose of filling
17 vacancies on the board which occur for reasons other than an expiration of
18 term, the nominating commission shall present a list of three (3) names to the
19 Governor no later than sixty (60) days after a vacancy occurs.

20 (b) If the Governor fails to appoint a member of the board within thirty (30) days
21 following receipt of a list of names from the nominating commission, the
22 previous appointee may remain in the position until the ninetieth day
23 following the date the nominating commission provided the Governor with its
24 list of names, at which time he or she shall vacate the position.

25 ~~(Z)~~ ~~(8)~~ The nominating commission shall meet as often as necessary to perform its
26 responsibilities, and the members shall be reimbursed from funds collected pursuant
27 to KRS 342.122 for necessary expenses in the manner and amounts prescribed for

1 state employees by KRS 45.101 and the administrative regulations promulgated
2 under the authority of that statute. In addition, each member of the nominating
3 commission shall be paid at a rate of one hundred dollars (\$100) per day for each
4 meeting attended, and these expenses shall be financed from funds collected
5 pursuant to KRS 342.122.

6 ➔Section 9. KRS 342.228 is amended to read as follows:

7 (1) The Department of Workers' Claims shall be responsible for administering claims
8 and ensuring compliance with the insurance, self-insurance, and rehabilitation
9 provisions in this chapter. The department shall be administered by a commissioner
10 appointed by the Governor. ~~[The Governor shall select the commissioner from a list~~
11 ~~of three (3) names submitted by the Workers' Compensation Nominating~~
12 ~~Commission created pursuant to KRS 342.213.]~~ The commissioner appointed by
13 the Governor shall be subject to the consent of the Senate in accordance with KRS
14 11.160.

15 (2) The commissioner shall have demonstrated knowledge and experience in the area of
16 workers' compensation, public administration, and administrative law.

17 ➔Section 10. KRS 342.230 is amended to read as follows:

18 (1) ~~[The commissioner, within the limits of appropriations therefor and except as~~
19 ~~otherwise specifically provided in this chapter, shall establish and fill any positions,~~
20 ~~including medical services and advice, necessary to carry on the department's work.~~
21 ~~The employees of the Department of Workers' Claims, except the commissioner,~~
22 ~~administrative law judges, and board members, shall be members of the classified~~
23 ~~service.~~

24 ~~(2) The commissioner of the Department of Workers' Claims shall have immediate~~
25 ~~supervision of the employees of the department, perform duties assigned him or her,~~
26 ~~and have complete authority to carry out all the administrative functions relating to~~
27 ~~the Department of Workers' Claims.]~~ The commissioner with the assistance of the

1 board shall train and instruct the administrative law judges on an ongoing basis;
2 assign cases; and monitor the caseloads of the administrative law judges and the
3 Workers' Compensation Board to ensure timely disposition of cases; keep and be
4 the custodian of the records of the board and the administrative law judges; annually
5 report the activities of the board and the administrative law judges to the Governor;
6 and devote his or her full time to the duties of his or her office. The commissioner
7 shall be paid a salary not less than the salary of a member of the board.

8 ~~(2)~~~~(3)~~ The Governor shall appoint, with the consent of the Senate in accordance with
9 KRS 11.160 for a term of four (4) years, not more than nineteen (19) administrative
10 law judges, each of whom shall be an attorney and shall have five (5) years'
11 experience in the Commonwealth in the practice of workers' compensation law or a
12 related field, and extensive knowledge of workers' compensation law, and shall be
13 paid the same salary as a Circuit Judge. Each administrative law judge may be
14 employed for additional terms with the consent of the Senate in accordance with
15 KRS 11.160. The Governor, at least thirty (30) days prior to the expiration of a term
16 of an administrative law judge, shall provide the name of the individual whom he
17 intends to appoint to the position to the chairman of the Senate Labor and Industry
18 Committee. These administrative law judges shall conduct hearings, and otherwise
19 supervise the presentation of evidence and perform any other duties assigned to
20 them by statute and shall render final decisions, orders, or awards. Administrative
21 law judges may, in receiving evidence, make rulings affecting the competency,
22 relevancy, and materiality of the evidence about to be presented and upon motions
23 presented during the taking of evidence as will expedite the preparation of the case.

24 ~~(3)~~~~(4)~~ To ensure that the administrative law judges perform their responsibilities
25 competently and issue decisions consistent with this chapter, the commissioner
26 shall, at least twice annually, conduct training and education seminars in workers'
27 compensation law; administrative law; and methods and procedures for writing

1 well-reasoned, clear, correct, and concise opinions, orders, or awards.

2 ~~(4)~~⁽⁵⁾ The Governor may at any time remove the commissioner or any member of
3 the board. The commissioner may remove any administrative law judge. A member
4 of the board or an administrative law judge may be removed for good cause,
5 including violation of the code of judicial ethics or the code of ethics applicable to
6 the executive branch of the Commonwealth. In addition, an administrative law
7 judge or a member of the board may be removed for the persistent or repeated
8 failure to perform satisfactorily the specific duties assigned in this chapter,
9 including the requirement of timely disposition of cases, review of attorney's fees,
10 and failure to attend training and continuing education programs required by this
11 section.

12 ~~(5)~~⁽⁶⁾ Any vacancy in the term of an administrative law judge, which occurs prior to
13 the expiration of the term, shall be filled if necessary by appointment of the
14 Governor in accordance with subsection (3) of this section within sixty (60) days
15 from the date the vacancy occurs, with the consent of the Senate in accordance with
16 KRS 11.160, for the remainder of the term.

17 ~~(6)~~⁽⁷⁾ (a) ~~[Effective at 12 midnight, December 31, 1997, the terms of~~
18 ~~administrative law judges who were appointed to fill the five (5)~~
19 ~~administrative law judge positions which were created in 1990 shall end, and~~
20 ~~the term of the chief administrative law judge who was appointed under~~
21 ~~subsection (8) of this section shall end.]~~ On January 1, 1998, the Governor
22 shall make four (4) year appointments to fill as many of these positions as are
23 necessary to fulfill the duties assigned to administrative law judges under this
24 chapter.

25 (b) ~~[Effective at 12 midnight, December 31, 1999, the terms of administrative law~~
26 ~~judges who were appointed to fill the ten (10) administrative law judge~~
27 ~~positions which were created in 1987 shall end.]~~ On January 1, 2000, the

1 Governor shall make four (4) year appointments to fill as many of these
2 positions as are necessary to fulfill the duties assigned to administrative law
3 judges under this chapter.

4 ~~(7)~~~~(8)~~ One (1) of the administrative law judges appointed pursuant to this section
5 shall be appointed as a chief administrative law judge, to have the same
6 qualifications, powers, duties, and requirements as those of other administrative law
7 judges. The chief administrative law judge shall not be assigned regular dockets but
8 shall instead assist the commissioner by doing all scheduling of the administrative
9 law judges, handling dockets assigned to the administrative law judges in case of an
10 emergency, providing supervision of the administrative law judges, and providing
11 educational opportunities for the administrative law judges. The chief
12 administrative law judge shall be paid at the same rate as the administrative law
13 judges plus an additional three thousand dollars (\$3,000) per year. At any time the
14 commissioner may replace the chief administrative law judge with one (1) of the
15 other administrative law judges at which time the former chief administrative law
16 judge shall resume the duties assigned to the other administrative law judges
17 pursuant to this chapter. ~~[The term of the chief administrative law judge employed~~
18 ~~in 1994 shall expire on December 31, 1997.]~~ On January 1, 1998, the commissioner
19 shall employ a person in this position for a four (4) year term.

20 ➔Section 11. KRS 342.347 is amended to read as follows:

21 (1) The commissioner or the commissioner's designee shall have power to examine the
22 financial condition and affairs related to workers' compensation of any individual
23 self-insureds and shall have free access to books and documents relating to the self-
24 insurance activities of the entity. The commissioner shall so examine each
25 individual self-insured not less frequently than once every four (4) years.
26 Information obtained through the examination shall be exempt from disclosure,
27 under KRS 61.878(1)(c) *or* (j).

- 1 (2) All individual self-insured employers shall file with the commissioner a statement
2 of financial condition audited by an independent certified public accountant on or
3 before one hundred twenty (120) days from the end of the self-insured's fiscal year
4 for the immediately preceding fiscal year.
- 5 (3) The expense of examination shall be borne by the entity examined and shall include
6 reasonable lodging and travel expenses of the commissioner's designees, and expert
7 assistance as necessarily incurred in the examination.
- 8 (4) The Department of Insurance shall approve the form and contents of excess
9 insurance policies and upon request of the commissioner shall review the
10 application for approval of any individual self-insured and render an opinion as to
11 the sufficiency of the excess insurance policies or other security posted by the
12 applicant.
- 13 (5) Not less often than biennially, the commissioner of the Department of Insurance
14 shall review the activities, procedures, administrative regulations, and policies of
15 the Department of Workers' Claims and make such recommendations to the
16 Governor and legislative committees as may be appropriate to strengthen the
17 oversight of individual self-insureds so that payment of liabilities to workers under
18 this chapter is assured.

19 ➔Section 12. KRS 12.020 is amended to read as follows:

20 Departments, program cabinets and their departments, and the respective major
21 administrative bodies that they include are enumerated in this section. It is not intended
22 that this enumeration of administrative bodies be all-inclusive. Every authority, board,
23 bureau, interstate compact, commission, committee, conference, council, office, or any
24 other form of organization shall be included in or attached to the department or program
25 cabinet in which they are included or to which they are attached by statute or statutorily
26 authorized executive order; except in the case of the Personnel Board and where the
27 attached department or administrative body is headed by a constitutionally elected officer,

1 the attachment shall be solely for the purpose of dissemination of information and
2 coordination of activities and shall not include any authority over the functions,
3 personnel, funds, equipment, facilities, or records of the department or administrative
4 body.

5 I. Cabinet for General Government - Departments headed by elected officers:

6 (1) The Governor.

7 (2) Lieutenant Governor.

8 (3) Department of State.

9 (a) Secretary of State.

10 (b) Board of Elections.

11 (c) Registry of Election Finance.

12 (4) Department of Law.

13 (a) Attorney General.

14 (5) Department of the Treasury.

15 (a) Treasurer.

16 (6) Department of Agriculture.

17 (a) Commissioner of Agriculture.

18 (b) Kentucky Council on Agriculture.

19 (7) Auditor of Public Accounts.

20 II. Program cabinets headed by appointed officers:

21 (1) Justice and Public Safety Cabinet:

22 (a) Department of Kentucky State Police.

23 (b) Department of Criminal Justice Training.

24 (c) Department of Corrections.

25 (d) Department of Juvenile Justice.

26 (e) Office of the Secretary.

27 (f) Office of Drug Control Policy.

- 1 (g) Office of Legal Services.
- 2 (h) Office of the Kentucky State Medical Examiner.
- 3 (i) Parole Board.
- 4 (j) Kentucky State Corrections Commission.
- 5 (k) Office of Legislative and Intergovernmental Services.
- 6 (l) Office of Management and Administrative Services.
- 7 (m) Department for Public Advocacy.
- 8 (2) Education and Workforce Development Cabinet:
- 9 (a) Office of the Secretary.
- 10 1. Governor's Scholars Program.
- 11 2. Governor's School for Entrepreneurs Program.
- 12 (b) Office of Legal and Legislative Services.
- 13 1. Client Assistance Program.
- 14 (c) Office of Communication.
- 15 (d) Office of Budget and Administration.
- 16 1. Division of Human Resources.
- 17 2. Division of Administrative Services.
- 18 (e) Office of Technology Services.
- 19 (f) Office of Educational Programs.
- 20 (g) Office for Education and Workforce Statistics.
- 21 (h) Board of the Kentucky Center for Education and Workforce Statistics.
- 22 (i) Board of Directors for the Center for School Safety.
- 23 (j) Department of Education.
- 24 1. Kentucky Board of Education.
- 25 2. Kentucky Technical Education Personnel Board.
- 26 (k) Department for Libraries and Archives.
- 27 (l) Department of Workforce Investment.

- 1 1. Office for the Blind.
- 2 2. Office of Vocational Rehabilitation.
- 3 3. Office of Employment and Training.
- 4 a. Division of Grant Management and Support.
- 5 b. Division of Workforce and Employment Services.
- 6 c. Division of Unemployment Insurance.
- 7 (m) Foundation for Workforce Development.
- 8 (n) Kentucky Office for the Blind State Rehabilitation Council.
- 9 (o) Kentucky Workforce Investment Board.
- 10 (p) Statewide Council for Vocational Rehabilitation.
- 11 (q) Unemployment Insurance Commission.
- 12 (r) Education Professional Standards Board.
- 13 1. Division of Educator Preparation.
- 14 2. Division of Certification.
- 15 3. Division of Professional Learning and Assessment.
- 16 4. Division of Legal Services.
- 17 (s) Kentucky Commission on the Deaf and Hard of Hearing.
- 18 (t) Kentucky Educational Television.
- 19 (u) Kentucky Environmental Education Council.
- 20 (3) Energy and Environment Cabinet:
- 21 (a) Office of the Secretary.
- 22 1. Office of Legislative and Intergovernmental Affairs.
- 23 2. Office of General Counsel.
- 24 3. Office of Administrative Hearings.
- 25 4. Mine Safety Review Commission.
- 26 5. Kentucky State Nature Preserves Commission.
- 27 6. Kentucky Environmental Quality Commission.

- 1 7. Kentucky Public Service Commission.
- 2 (b) Department for Environmental Protection.
- 3 1. Office of the Commissioner.
- 4 2. Division for Air Quality.
- 5 3. Division of Water.
- 6 4. Division of Environmental Program Support.
- 7 5. Division of Waste Management.
- 8 6. Division of Enforcement.
- 9 7. Division of Compliance Assistance.
- 10 (c) Department for Natural Resources.
- 11 1. Office of the Commissioner.
- 12 2. Division of Technical and Administrative Support.
- 13 3. Division of Mine Permits.
- 14 4. Division of Mine Reclamation and Enforcement.
- 15 5. Division of Abandoned Mine Lands.
- 16 6. Division of Oil and Gas.
- 17 7. Division of Mine Safety.
- 18 8. Division of Forestry.
- 19 9. Division of Conservation.
- 20 10. Office of the Reclamation Guaranty Fund.
- 21 11. Kentucky Mining Board.
- 22 (d) Department for Energy Development and Independence.
- 23 1. Division of Efficiency and Conservation.
- 24 2. Division of Renewable Energy.
- 25 3. Division of Biofuels.
- 26 4. Division of Energy Generation Transmission and Distribution.
- 27 5. Division of Carbon Management.

- 1 6. Division of Fossil Energy Development.
- 2 (4) Public Protection Cabinet.
- 3 (a) Office of the Secretary.
- 4 1. Office of Communications and Public Outreach.
- 5 2. Office of Legal Services.
- 6 a. Insurance Legal Division.
- 7 b. Charitable Gaming Legal Division.
- 8 c. Alcoholic Beverage Control Legal Division.
- 9 d. Housing, Buildings and Construction Legal Division.
- 10 e. Financial Institutions Legal Division.
- 11 (b) Crime Victims Compensation Board.
- 12 (c) Board of Claims.
- 13 (d) Kentucky Board of Tax Appeals.
- 14 (e) Kentucky Boxing and Wrestling Authority.
- 15 (f) Kentucky Horse Racing Commission.
- 16 1. Division of Licensing.
- 17 2. Division of Incentives and Development.
- 18 3. Division of Veterinary Services.
- 19 4. Division of Security and Enforcement.
- 20 (g) Department of Alcoholic Beverage Control.
- 21 1. Division of Distilled Spirits.
- 22 2. Division of Malt Beverages.
- 23 3. Division of Enforcement.
- 24 (h) Department of Charitable Gaming.
- 25 1. Division of Licensing and Compliance.
- 26 2. Division of Enforcement.
- 27 (i) Department of Financial Institutions.

- 1 1. Division of Depository Institutions.
- 2 2. Division of Non-Depository Institutions.
- 3 3. Division of Securities.
- 4 (j) Department of Housing, Buildings and Construction.
- 5 1. Division of Fire Prevention.
- 6 2. Division of Plumbing.
- 7 3. Division of Heating, Ventilation, and Air Conditioning.
- 8 4. Division of Building Code Enforcement.
- 9 (k) Department of Insurance.
- 10 1. Property and Casualty Division.
- 11 2. Health and Life Division.
- 12 3. Division of Financial Standards and Examination.
- 13 4. Division of Agent Licensing.
- 14 5. Division of Insurance Fraud Investigation.
- 15 6. Consumer Protection Division.
- 16 7. Division of Kentucky Access.
- 17 (l) Office of Occupations and Professions.
- 18 (5) Labor Cabinet.
- 19 (a) Office of the Secretary.
- 20 1. Division of Management Services.
- 21 2. Office of General Counsel.
- 22 **a. Workplace Standards Legal Division.**
- 23 **b. Workers' Claims Legal Division.**
- 24 (b) Office of General Administration and Program Support for Shared
- 25 Services.
- 26 1. Division of Human Resource Management.
- 27 2. Division of Fiscal Management.

- 1 3. Division of Budgets.
- 2 4. Division of Information Services.
- 3 (c) Office of Inspector General for Shared Services.
- 4 (d) Department of Workplace Standards.
- 5 1. Division of ~~{Employment Standards,}~~ Apprenticeship~~[,—and~~
- 6 ~~Mediation}~~.
- 7 2. Division of Occupational Safety and Health Compliance.
- 8 3. Division of Occupational Safety and Health Education and
- 9 Training.
- 10 4. Division of Wages and Hours~~{Workers' Compensation Funds}~~.
- 11 (e) Department of Workers' Claims.
- 12 1. Division of Workers' Compensation Funds~~{Office of General~~
- 13 ~~Counsel for Workers' Claims}~~.
- 14 2. Office of Administrative Law Judges.
- 15 3. Division of Claims Processing.
- 16 4. Division of Security and Compliance.
- 17 5. Division of Information Services~~{and Research}~~.
- 18 6. Division of Ombudsman and Workers' Compensation Specialist
- 19 Services.
- 20 7. Workers' Compensation Board.
- 21 8. ~~{Workers' Compensation Advisory Council}~~.
- 22 9. ~~—~~Workers' Compensation Nominating Commission.
- 23 (f) Workers' Compensation Funding Commission.
- 24 (g) Kentucky Labor-Management Advisory Council.
- 25 (h) Occupational Safety and Health Standards Board.
- 26 (i) Prevailing Wage Review Board.
- 27 (j) Apprenticeship and Training Council.

- 1 (k) State Labor Relations Board.
- 2 (l) Employers' Mutual Insurance Authority.
- 3 (m) Kentucky Occupational Safety and Health Review Commission.
- 4 (6) Transportation Cabinet:
- 5 (a) Department of Highways.
- 6 1. Office of Project Development.
- 7 2. Office of Project Delivery and Preservation.
- 8 3. Office of Highway Safety.
- 9 4. Highway District Offices One through Twelve.
- 10 (b) Department of Vehicle Regulation.
- 11 (c) Department of Aviation.
- 12 (d) Department of Rural and Municipal Aid.
- 13 1. Office of Local Programs.
- 14 2. Office of Rural and Secondary Roads.
- 15 (e) Office of the Secretary.
- 16 1. Office of Public Affairs.
- 17 2. Office for Civil Rights and Small Business Development.
- 18 3. Office of Budget and Fiscal Management.
- 19 4. Office of Inspector General.
- 20 (f) Office of Support Services.
- 21 (g) Office of Transportation Delivery.
- 22 (h) Office of Audits.
- 23 (i) Office of Human Resource Management.
- 24 (j) Office of Information Technology.
- 25 (k) Office of Legal Services.
- 26 (7) Cabinet for Economic Development:
- 27 (a) Office of the Secretary.

- 1 1. Office of Legal Services.
- 2 2. Department for Business Development.
- 3 a. Office of Entrepreneurship.
- 4 i. Commission on Small Business Advocacy.
- 5 b. Office of Research and Public Affairs.
- 6 c. Bluegrass State Skills Corporation.
- 7 3. Office of Financial Services.
- 8 a. Kentucky Economic Development Finance Authority.
- 9 b. Division of Finance and Personnel.
- 10 c. Division of Network Administration.
- 11 d. Compliance Division.
- 12 e. Incentive Assistance Division.
- 13 (8) Cabinet for Health and Family Services:
- 14 (a) Office of the Secretary.
- 15 (b) Office of Health Policy.
- 16 (c) Office of Legal Services.
- 17 (d) Office of Inspector General.
- 18 (e) Office of Communications and Administrative Review.
- 19 (f) Office of the Ombudsman.
- 20 (g) Office of Policy and Budget.
- 21 (h) Office of Human Resource Management.
- 22 (i) Office of Administrative and Technology Services.
- 23 (j) Department for Public Health.
- 24 (k) Department for Medicaid Services.
- 25 (l) Department for Behavioral Health, Developmental and Intellectual
- 26 Disabilities.
- 27 (m) Department for Aging and Independent Living.

- 1 (n) Department for Community Based Services.
- 2 (o) Department for Income Support.
- 3 (p) Department for Family Resource Centers and Volunteer Services.
- 4 (q) Kentucky Commission on Community Volunteerism and Service.
- 5 (r) Kentucky Commission for Children with Special Health Care Needs.
- 6 (s) Governor's Office of Electronic Health Information.
- 7 (9) Finance and Administration Cabinet:
- 8 (a) Office of General Counsel.
- 9 (b) Office of the Controller.
- 10 (c) Office of Administrative Services.
- 11 (d) Office of Public Information.
- 12 (e) Office of Policy and Audit.
- 13 (f) Department for Facilities and Support Services.
- 14 (g) Department of Revenue.
- 15 (h) Commonwealth Office of Technology.
- 16 (i) State Property and Buildings Commission.
- 17 (j) Office of Equal Employment Opportunity and Contract Compliance.
- 18 (k) Kentucky Employees Retirement Systems.
- 19 (l) Commonwealth Credit Union.
- 20 (m) State Investment Commission.
- 21 (n) Kentucky Housing Corporation.
- 22 (o) Kentucky Local Correctional Facilities Construction Authority.
- 23 (p) Kentucky Turnpike Authority.
- 24 (q) Historic Properties Advisory Commission.
- 25 (r) Kentucky Tobacco Settlement Trust Corporation.
- 26 (s) Kentucky Higher Education Assistance Authority.
- 27 (t) Kentucky River Authority.

- 1 (u) Kentucky Teachers' Retirement System Board of Trustees.
- 2 (v) Executive Branch Ethics Commission.
- 3 (10) Tourism, Arts and Heritage Cabinet:
- 4 (a) Kentucky Department of Travel and Tourism.
- 5 1. Division of Tourism Services.
- 6 2. Division of Marketing and Administration.
- 7 3. Division of Communications and Promotions.
- 8 (b) Kentucky Department of Parks.
- 9 1. Division of Information Technology.
- 10 2. Division of Human Resources.
- 11 3. Division of Financial Operations.
- 12 4. Division of Facilities Management.
- 13 5. Division of Facilities Maintenance.
- 14 6. Division of Customer Services.
- 15 7. Division of Recreation.
- 16 8. Division of Golf Courses.
- 17 9. Division of Food Services.
- 18 10. Division of Rangers.
- 19 11. Division of Resort Parks.
- 20 12. Division of Recreational Parks and Historic Sites.
- 21 (c) Department of Fish and Wildlife Resources.
- 22 1. Division of Law Enforcement.
- 23 2. Division of Administrative Services.
- 24 3. Division of Engineering.
- 25 4. Division of Fisheries.
- 26 5. Division of Information and Education.
- 27 6. Division of Wildlife.

- 1 7. Division of Public Affairs.
- 2 (d) Kentucky Horse Park.
- 3 1. Division of Support Services.
- 4 2. Division of Buildings and Grounds.
- 5 3. Division of Operational Services.
- 6 (e) Kentucky State Fair Board.
- 7 1. Office of Administrative and Information Technology Services.
- 8 2. Office of Human Resources and Access Control.
- 9 3. Division of Expositions.
- 10 4. Division of Kentucky Exposition Center Operations.
- 11 5. Division of Kentucky International Convention Center.
- 12 6. Division of Public Relations and Media.
- 13 7. Division of Venue Services.
- 14 8. Division of Personnel Management and Staff Development.
- 15 9. Division of Sales.
- 16 10. Division of Security and Traffic Control.
- 17 11. Division of Information Technology.
- 18 12. Division of the Louisville Arena.
- 19 13. Division of Fiscal and Contract Management.
- 20 14. Division of Access Control.
- 21 (f) Office of the Secretary.
- 22 1. Office of Finance.
- 23 2. Office of Research and Administration.
- 24 3. Office of Governmental Relations and Tourism Development.
- 25 4. Office of the Sports Authority.
- 26 5. Kentucky Sports Authority.
- 27 (g) Office of Legal Affairs.

- 1 (h) Office of Human Resources.
- 2 (i) Office of Public Affairs and Constituent Services.
- 3 (j) Office of Creative Services.
- 4 (k) Office of Capital Plaza Operations.
- 5 (l) Office of Arts and Cultural Heritage.
- 6 (m) Kentucky African-American Heritage Commission.
- 7 (n) Kentucky Foundation for the Arts.
- 8 (o) Kentucky Humanities Council.
- 9 (p) Kentucky Heritage Council.
- 10 (q) Kentucky Arts Council.
- 11 (r) Kentucky Historical Society.
- 12 1. Division of Museums.
- 13 2. Division of Oral History and Educational Outreach.
- 14 3. Division of Research and Publications.
- 15 4. Division of Administration.
- 16 (s) Kentucky Center for the Arts.
- 17 1. Division of Governor's School for the Arts.
- 18 (t) Kentucky Artisans Center at Berea.
- 19 (u) Northern Kentucky Convention Center.
- 20 (v) Eastern Kentucky Exposition Center.
- 21 (11) Personnel Cabinet:
- 22 (a) Office of the Secretary.
- 23 (b) Department of Human Resources Administration.
- 24 (c) Office of Employee Relations.
- 25 (d) Kentucky Public Employees Deferred Compensation Authority.
- 26 (e) Office of Administrative Services.
- 27 (f) Office of Legal Services.

1 (g) Governmental Services Center.

2 (h) Department of Employee Insurance.

3 (i) Office of Diversity and Equality.

4 (j) Center of Strategic Innovation.

5 III. Other departments headed by appointed officers:

6 (1) Council on Postsecondary Education.

7 (2) Department of Military Affairs.

8 (3) Department for Local Government.

9 (4) Kentucky Commission on Human Rights.

10 (5) Kentucky Commission on Women.

11 (6) Department of Veterans' Affairs.

12 (7) Kentucky Commission on Military Affairs.

13 (8) Office of Minority Empowerment.

14 (9) Governor's Council on Wellness and Physical Activity.

15 ➔Section 13. The following KRS sections are repealed:

16 336.140 Secretary to investigate and mediate labor disputes.

17 336.151 Conciliation and mediation of labor disputes.

18 336.152 Minimizing labor disputes.

19 336.153 Disclosure by mediators prohibited.

20 336.156 Third parties to labor/management negotiations or arbitration -- Duties --

21 Regulations by secretary.

22 336.162 Kentucky Labor-Management Advisory Council.

23 336.164 Duties of council -- Staff support.

24 336.165 Grants-in-aid to labor-management relations organizations.

25 336.1661 Definitions.

26 336.1662 Duties of secretary.

27 336.1663 Arbitrators -- Relationship to cabinet and parties.

- 1 336.1664 Rules and regulations.