

1 AN ACT relating to the prevailing wage.

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

3 ➔Section 1. KRS 12.020 is amended to read as follows:

4 Departments, program cabinets and their departments, and the respective major  
5 administrative bodies that they include are enumerated in this section. It is not intended  
6 that this enumeration of administrative bodies be all-inclusive. Every authority, board,  
7 bureau, interstate compact, commission, committee, conference, council, office, or any  
8 other form of organization shall be included in or attached to the department or program  
9 cabinet in which they are included or to which they are attached by statute or statutorily  
10 authorized executive order; except in the case of the Personnel Board and where the  
11 attached department or administrative body is headed by a constitutionally elected officer,  
12 the attachment shall be solely for the purpose of dissemination of information and  
13 coordination of activities and shall not include any authority over the functions,  
14 personnel, funds, equipment, facilities, or records of the department or administrative  
15 body.

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

- 17 (1) The Governor.
- 18 (2) Lieutenant Governor.
- 19 (3) Department of State.
- 20 (a) Secretary of State.
- 21 (b) Board of Elections.
- 22 (c) Registry of Election Finance.
- 23 (4) Department of Law.
- 24 (a) Attorney General.
- 25 (5) Department of the Treasury.
- 26 (a) Treasurer.
- 27 (6) Department of Agriculture.

- 1 (a) Commissioner of Agriculture.
- 2 (b) Kentucky Council on Agriculture.
- 3 (7) Auditor of Public Accounts.
- 4 II. Program cabinets headed by appointed officers:
- 5 (1) Justice and Public Safety Cabinet:
- 6 (a) Department of Kentucky State Police.
- 7 (b) Department of Criminal Justice Training.
- 8 (c) Department of Corrections.
- 9 (d) Department of Juvenile Justice.
- 10 (e) Office of the Secretary.
- 11 (f) Office of Drug Control Policy.
- 12 (g) Office of Legal Services.
- 13 (h) Office of the Kentucky State Medical Examiner.
- 14 (i) Parole Board.
- 15 (j) Kentucky State Corrections Commission.
- 16 (k) Office of Legislative and Intergovernmental Services.
- 17 (l) Office of Management and Administrative Services.
- 18 (m) Department of Public Advocacy.
- 19 (2) Education and Workforce Development Cabinet:
- 20 (a) Office of the Secretary.
- 21 1. Governor's Scholars Program.
- 22 2. Governor's School for Entrepreneurs Program.
- 23 (b) Office of Legal and Legislative Services.
- 24 1. Client Assistance Program.
- 25 (c) Office of Communication.
- 26 (d) Office of Budget and Administration.
- 27 1. Division of Human Resources.

- 1                   2.    Division of Administrative Services.
- 2                   (e)   Office of Technology Services.
- 3                   (f)   Office of Educational Programs.
- 4                   (g)   Office for Education and Workforce Statistics.
- 5                   (h)   Board of the Kentucky Center for Education and Workforce Statistics.
- 6                   (i)   Board of Directors for the Center for School Safety.
- 7                   (j)   Department of Education.
  - 8                   1.    Kentucky Board of Education.
  - 9                   2.    Kentucky Technical Education Personnel Board.
- 10                  (k)   Department for Libraries and Archives.
- 11                  (l)   Department of Workforce Investment.
  - 12                  1.    Office for the Blind.
  - 13                  2.    Office of Vocational Rehabilitation.
  - 14                  3.    Office of Employment and Training.
    - 15                  a.    Division of Grant Management and Support.
    - 16                  b.    Division of Workforce and Employment Services.
    - 17                  c.    Division of Unemployment Insurance.
- 18                  (m)   Foundation for Workforce Development.
- 19                  (n)   Kentucky Office for the Blind State Rehabilitation Council.
- 20                  (o)   Kentucky Workforce Investment Board.
- 21                  (p)   Statewide Council for Vocational Rehabilitation.
- 22                  (q)   Unemployment Insurance Commission.
- 23                  (r)   Education Professional Standards Board.
  - 24                  1.    Division of Educator Preparation.
  - 25                  2.    Division of Certification.
  - 26                  3.    Division of Professional Learning and Assessment.
  - 27                  4.    Division of Legal Services.

- 1 (s) Kentucky Commission on the Deaf and Hard of Hearing.
- 2 (t) Kentucky Educational Television.
- 3 (u) Kentucky Environmental Education Council.
- 4 (3) Energy and Environment Cabinet:
- 5 (a) Office of the Secretary.
- 6 1. Office of Legislative and Intergovernmental Affairs.
- 7 2. Office of General Counsel.
- 8 3. Office of Administrative Hearings.
- 9 4. Mine Safety Review Commission.
- 10 5. Kentucky State Nature Preserves Commission.
- 11 6. Kentucky Public Service Commission.
- 12 (b) Department for Environmental Protection.
- 13 1. Office of the Commissioner.
- 14 2. Division for Air Quality.
- 15 3. Division of Water.
- 16 4. Division of Environmental Program Support.
- 17 5. Division of Waste Management.
- 18 6. Division of Enforcement.
- 19 7. Division of Compliance Assistance.
- 20 (c) Department for Natural Resources.
- 21 1. Office of the Commissioner.
- 22 2. Division of Technical and Administrative Support.
- 23 3. Division of Mine Permits.
- 24 4. Division of Mine Reclamation and Enforcement.
- 25 5. Division of Abandoned Mine Lands.
- 26 6. Division of Oil and Gas.
- 27 7. Division of Mine Safety.

- 1                   8.    Division of Forestry.
- 2                   9.    Division of Conservation.
- 3                   10.   Office of the Reclamation Guaranty Fund.
- 4           (d)    Department for Energy Development and Independence.
- 5                   1.    Division of Efficiency and Conservation.
- 6                   2.    Division of Renewable Energy.
- 7                   3.    Division of Biofuels.
- 8                   4.    Division of Energy Generation Transmission and Distribution.
- 9                   5.    Division of Carbon Management.
- 10                  6.    Division of Fossil Energy Development.
- 11    (4)    Public Protection Cabinet.
- 12           (a)    Office of the Secretary.
- 13                   1.    Office of Communications and Public Outreach.
- 14                   2.    Office of Legal Services.
- 15                        a.    Insurance Legal Division.
- 16                        b.    Charitable Gaming Legal Division.
- 17                        c.    Alcoholic Beverage Control Legal Division.
- 18                        d.    Housing, Buildings and Construction Legal Division.
- 19                        e.    Financial Institutions Legal Division.
- 20           (b)    Kentucky Claims Commission.
- 21           (c)    Kentucky Boxing and Wrestling Commission.
- 22           (d)    Kentucky Horse Racing Commission.
- 23                   1.    Office of Executive Director.
- 24                        a.    Division of Pari-mutuel Wagering and Compliance.
- 25                        b.    Division of Stewards.
- 26                        c.    Division of Licensing.
- 27                        d.    Division of Enforcement.

- 1 e. Division of Incentives and Development.
- 2 f. Division of Veterinary Services.
- 3 (e) Department of Alcoholic Beverage Control.
  - 4 1. Division of Distilled Spirits.
  - 5 2. Division of Malt Beverages.
  - 6 3. Division of Enforcement.
- 7 (f) Department of Charitable Gaming.
  - 8 1. Division of Licensing and Compliance.
  - 9 2. Division of Enforcement.
- 10 (g) Department of Financial Institutions.
  - 11 1. Division of Depository Institutions.
  - 12 2. Division of Non-Depository Institutions.
  - 13 3. Division of Securities.
- 14 (h) Department of Housing, Buildings and Construction.
  - 15 1. Division of Fire Prevention.
  - 16 2. Division of Plumbing.
  - 17 3. Division of Heating, Ventilation, and Air Conditioning.
  - 18 4. Division of Building Code Enforcement.
- 19 (i) Department of Insurance.
  - 20 1. Division of Insurance Product Regulation.
  - 21 2. Division of Administrative Services.
  - 22 3. Division of Financial Standards and Examination.
  - 23 4. Division of Agent Licensing.
  - 24 5. Division of Insurance Fraud Investigation.
  - 25 6. Division of Consumer Protection.
  - 26 7. Division of Kentucky Access.
- 27 (j) Department of Professional Licensing.

- 1                   1.    Real Estate Authority.
- 2           (5)   Labor Cabinet.
- 3           (a)   Office of the Secretary.
- 4           1.    Division of Management Services.
- 5           2.    Office of General Counsel.
- 6           a.    Workplace Standards Legal Division.
- 7           b.    Workers' Claims Legal Division.
- 8           (b)   Office of General Administration and Program Support for Shared
- 9           Services.
- 10          1.    Division of Human Resource Management.
- 11          2.    Division of Fiscal Management.
- 12          3.    Division of Budgets.
- 13          4.    Division of Information Services.
- 14          (c)   Office of Inspector General for Shared Services.
- 15          (d)   Department of Workplace Standards.
- 16          1.    Division of Apprenticeship.
- 17          2.    Division of Occupational Safety and Health Compliance.
- 18          3.    Division of Occupational Safety and Health Education and
- 19                Training.
- 20          4.    Division of Wages and Hours.
- 21          (e)   Department of Workers' Claims.
- 22          1.    Division of Workers' Compensation Funds.
- 23          2.    Office of Administrative Law Judges.
- 24          3.    Division of Claims Processing.
- 25          4.    Division of Security and Compliance.
- 26          5.    Division of Information Services.
- 27          6.    Division of Ombudsman and Workers' Compensation Specialist

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



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

- 1 (h) Office of Human Resource Management.
- 2 (i) Office of Administrative and Technology Services.
- 3 (j) Department for Public Health.
- 4 (k) Department for Medicaid Services.
- 5 (l) Department for Behavioral Health, Developmental and Intellectual
- 6 Disabilities.
- 7 (m) Department for Aging and Independent Living.
- 8 (n) Department for Community Based Services.
- 9 (o) Department for Income Support.
- 10 (p) Department for Family Resource Centers and Volunteer Services.
- 11 (q) Kentucky Commission on Community Volunteerism and Service.
- 12 (r) Kentucky Commission for Children with Special Health Care Needs.
- 13 (s) Governor's Office of Electronic Health Information.
- 14 (t) Office of Legislative and Regulatory Affairs.
- 15 (9) Finance and Administration Cabinet:
- 16 (a) Office of the Secretary.
- 17 (b) Office of the Inspector General.
- 18 (c) Office of Legislative and Intergovernmental Affairs.
- 19 (d) Office of General Counsel.
- 20 (e) Office of the Controller.
- 21 (f) Office of Administrative Services.
- 22 (g) Office of Policy and Audit.
- 23 (h) Department for Facilities and Support Services.
- 24 (i) Department of Revenue.
- 25 (j) Commonwealth Office of Technology.
- 26 (k) State Property and Buildings Commission.
- 27 (l) Office of Equal Employment Opportunity and Contract Compliance.

- 1 (m) Kentucky Employees Retirement Systems.
- 2 (n) Commonwealth Credit Union.
- 3 (o) State Investment Commission.
- 4 (p) Kentucky Housing Corporation.
- 5 (q) Kentucky Local Correctional Facilities Construction Authority.
- 6 (r) Kentucky Turnpike Authority.
- 7 (s) Historic Properties Advisory Commission.
- 8 (t) Kentucky Tobacco Settlement Trust Corporation.
- 9 (u) Kentucky Higher Education Assistance Authority.
- 10 (v) Kentucky River Authority.
- 11 (w) Kentucky Teachers' Retirement System Board of Trustees.
- 12 (x) Executive Branch Ethics Commission.
- 13 (10) Tourism, Arts and Heritage Cabinet:
- 14 (a) Kentucky Department of Tourism.
- 15 1. Division of Tourism Services.
- 16 2. Division of Marketing and Administration.
- 17 3. Division of Communications and Promotions.
- 18 (b) Kentucky Department of Parks.
- 19 1. Division of Information Technology.
- 20 2. Division of Human Resources.
- 21 3. Division of Financial Operations.
- 22 4. Division of Facilities Management.
- 23 5. Division of Facilities Maintenance.
- 24 6. Division of Customer Services.
- 25 7. Division of Recreation.
- 26 8. Division of Golf Courses.
- 27 9. Division of Food Services.

- 1                   10. Division of Rangers.
- 2                   11. Division of Resort Parks.
- 3                   12. Division of Recreational Parks and Historic Sites.
- 4           (c) Department of Fish and Wildlife Resources.
- 5                   1. Division of Law Enforcement.
- 6                   2. Division of Administrative Services.
- 7                   3. Division of Engineering, Infrastructure, and Technology.
- 8                   4. Division of Fisheries.
- 9                   5. Division of Information and Education.
- 10                  6. Division of Wildlife.
- 11                  7. Division of Marketing.
- 12           (d) Kentucky Horse Park.
- 13                   1. Division of Support Services.
- 14                   2. Division of Buildings and Grounds.
- 15                   3. Division of Operational Services.
- 16           (e) Kentucky State Fair Board.
- 17                   1. Office of Administrative and Information Technology Services.
- 18                   2. Office of Human Resources and Access Control.
- 19                   3. Division of Expositions.
- 20                   4. Division of Kentucky Exposition Center Operations.
- 21                   5. Division of Kentucky International Convention Center.
- 22                   6. Division of Public Relations and Media.
- 23                   7. Division of Venue Services.
- 24                   8. Division of Personnel Management and Staff Development.
- 25                   9. Division of Sales.
- 26                   10. Division of Security and Traffic Control.
- 27                   11. Division of Information Technology.

- 1                   12. Division of the Louisville Arena.
- 2                   13. Division of Fiscal and Contract Management.
- 3                   14. Division of Access Control.
- 4           (f) Office of the Secretary.
  - 5                   1. Office of Finance.
  - 6                   2. Office of Government Relations and Administration.
  - 7                   3. Office of Film and Tourism Development.
  - 8                   4. Kentucky Sports Authority.
- 9           (g) Office of Legal Affairs.
- 10           (h) Office of Human Resources.
- 11           (i) Office of Public Affairs and Constituent Services.
- 12           (j) Office of Creative Services.
- 13           (k) Office of Capital Plaza Operations.
- 14           (l) Office of Arts and Cultural Heritage.
- 15           (m) Kentucky African-American Heritage Commission.
- 16           (n) Kentucky Foundation for the Arts.
- 17           (o) Kentucky Humanities Council.
- 18           (p) Kentucky Heritage Council.
- 19           (q) Kentucky Arts Council.
- 20           (r) Kentucky Historical Society.
  - 21                   1. Division of Museums.
  - 22                   2. Division of Oral History and Educational Outreach.
  - 23                   3. Division of Research and Publications.
  - 24                   4. Division of Administration.
- 25           (s) Kentucky Center for the Arts.
  - 26                   1. Division of Governor's School for the Arts.
- 27           (t) Kentucky Artisans Center at Berea.

- 1 (u) Northern Kentucky Convention Center.
- 2 (v) Eastern Kentucky Exposition Center.
- 3 (11) Personnel Cabinet:
  - 4 (a) Office of the Secretary.
  - 5 (b) Department of Human Resources Administration.
  - 6 (c) Office of Employee Relations.
  - 7 (d) Kentucky Public Employees Deferred Compensation Authority.
  - 8 (e) Office of Administrative Services.
  - 9 (f) Office of Legal Services.
  - 10 (g) Governmental Services Center.
  - 11 (h) Department of Employee Insurance.
  - 12 (i) Office of Diversity, Equality, and Training.
  - 13 (j) Office of Public Affairs.

14 III. Other departments headed by appointed officers:

- 15 (1) Council on Postsecondary Education.
- 16 (2) Department of Military Affairs.
- 17 (3) Department for Local Government.
- 18 (4) Kentucky Commission on Human Rights.
- 19 (5) Kentucky Commission on Women.
- 20 (6) Department of Veterans' Affairs.
- 21 (7) Kentucky Commission on Military Affairs.
- 22 (8) Office of Minority Empowerment.
- 23 (9) Governor's Council on Wellness and Physical Activity.
- 24 (10) Kentucky Communications Network Authority.

25 ➔Section 2. KRS 99.480 is amended to read as follows:

26 Before the agency enters into any contracts for work of demolition, grading,  
27 clearing or construction of utilities or other facilities or site improvements, it shall satisfy

1 all requirements of the law, applicable to similar contracts of the community, relating to  
2 the advertisement and acceptance of bids, execution of bonds, and award of contracts.  
3 **The agency shall also attach to and make a part of the specifications for a contract for**  
4 **such work, a schedule of prevailing wages, and shall conform to all of the**  
5 **requirements of Sections 7 to 17 of this Act, inclusive.**

6 →Section 3. KRS 227.487 is amended to read as follows:

7 Except where other rules are adopted by a city or county, the following reporting and fee  
8 requirements shall apply to electrical inspections of residential buildings and single-  
9 family dwellings:

10 (1) The inspector shall complete a report for each inspection. One (1) copy of the report  
11 shall be given to the owner of the electrical installation or his or her representative  
12 at the time the inspection fees are paid. A second copy of the report shall be sent to  
13 the department no later than one (1) week after the inspection is completed. The  
14 report shall include but is not limited to the following:

- 15 (a) The address of the dwelling inspected;
- 16 (b) The number of rooms, number of receptacles and number of switch boxes  
17 inspected;
- 18 (c) Number of code violations, if any;
- 19 (d) A description of each code violation, and recommended change to correct the  
20 violation;
- 21 (e) The date and time of day the inspection commenced;
- 22 (f) The time, in hours and minutes, required for the inspection;
- 23 (g) The number of miles and hours and minutes of travel time incurred by the  
24 inspector for that inspection, if mileage and travel charges are added to the  
25 inspection fee; and
- 26 (h) The amount charged for the inspection, separated into an amount for mileage,  
27 if any, and the amount for travel time, if any, and the amount charged for the

1 actual inspection.

2 (2) The maximum inspection fee shall be an amount equal to the wage prevailing wage  
3 for a~~paid to a majority of~~ master electrician~~electricians~~ in the region in which  
4 the inspection is made, multiplied by the time required to conduct the inspection.

5 This rate shall not be applied to travel time to and from the inspection.

6 (3) An inspector may charge, in addition to the inspection fee, an amount for necessary  
7 travel to and from the inspection site. The mileage rate charged shall not exceed the  
8 amount per mile allowed to state employees, and the inspector shall charge no more  
9 than ten dollars (\$10) per hour for travel time. If two (2) or more inspections are  
10 made during one (1) trip, then the cost of travel shall be divided between the  
11 inspections made. In no case shall an inspector charge more than once for the same  
12 trip, or charge for mileage or time not actually expended.

13 (4) Each inspector shall furnish bond of five thousand dollars (\$5,000) with surety  
14 satisfactory to the department.

15 (5) The department shall design reporting forms which meet the requirements of  
16 subsection (1) of this section, and provide these forms to electrical inspectors. The  
17 department shall promulgate administrative regulations to administer the  
18 requirements of this section.

19 (6) Nothing in this section is intended to limit the right of cities or counties to set fees  
20 or adopt rules for electrical inspections which are different from those specified in  
21 subsection (1), (2), (3), or (4) of this section.

22 ➔Section 4. KRS 336.015 is amended to read as follows:

23 (1) The secretary of the Labor Cabinet shall have the duties, responsibilities, power,  
24 and authority relating to labor, wages and hours, occupational safety and health of  
25 employees, child labor, apprenticeship, workers' compensation, and all other matters  
26 previously under the jurisdiction of the Department of Labor.

27 (2) The Labor Cabinet shall consist of the Office of the Secretary, the Department of



1 Workers' Claims, and the Department of Workplace Standards.

2 (3) The following agencies are attached to the cabinet for administrative purposes only:

3 (a) Kentucky Occupational Safety and Health Review Commission;

4 (b) State Labor Relations Board;

5 (c) Workers' Compensation Funding Commission;

6 (d) Occupational Safety and Health Standards Board;

7 (e) Apprenticeship and Training Council;

8 (f) Employers' Mutual Insurance Authority;

9 (g) Office of General Administration and Program Support for Shared Services,  
10 which shall be headed by an executive director appointed by the Governor in  
11 accordance with KRS 12.040 upon recommendation from the secretaries of  
12 the Energy and Environment Cabinet, the Labor Cabinet, and the Public  
13 Protection Cabinet. The office is composed of the following divisions:

14 1. Division of Human Resource Management;

15 2. Division of Fiscal Management;

16 3. Division of Budgets; and

17 4. Division of Information Services;

18 (h) Office of Inspector General for Shared Services, which shall be headed by an  
19 executive director appointed by the Governor in accordance with KRS 12.040  
20 upon recommendation from the secretaries of the Energy and Environment  
21 Cabinet, the Labor Cabinet, and the Public Protection Cabinet; and

22 (i) Workers' Compensation Nominating Committee.

23 **(j) *Prevailing Wage Review Board.***

24 ➔Section 5. KRS 337.010 is amended to read as follows:

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

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

1 Cabinet;

2 (b) "Department" means the Department of Workplace Standards in the Labor  
3 Cabinet;

4 (c) 1. "Wages" includes any compensation due to an employee by reason of his  
5 or her employment, including salaries, commissions, vested vacation  
6 pay, overtime pay, severance or dismissal pay, earned bonuses, and any  
7 other similar advantages agreed upon by the employer and the employee  
8 or provided to employees as an established policy. The wages shall be  
9 payable in legal tender of the United States, checks on banks, direct  
10 deposits, or payroll card accounts convertible into cash on demand at  
11 full face value, subject to the allowances made in this chapter. However,  
12 an employee may not be charged an activation fee and the payroll card  
13 account shall provide the employee with the ability, without charge, to  
14 make at least one (1) withdrawal per pay period for any amount up to  
15 and including the full account balance.

16 2. For the purposes of calculating hourly wage rates for scheduled overtime  
17 for professional firefighters, as defined in KRS 95A.210(5), "wages"  
18 shall not include the distribution to qualified professional firefighters by  
19 local governments of supplements received from the Firefighters  
20 Foundation Program Fund. For the purposes of calculating hourly wage  
21 rates for unscheduled overtime for professional firefighters, as defined in  
22 KRS 95A.210(6), "wages" shall include the distribution to qualified  
23 professional firefighters by local governments of supplements received  
24 from the Firefighters Foundation Program Fund;

25 (d) "Employer" is any person, either individual, corporation, partnership, agency,  
26 or firm who employs an employee and includes any person, either individual,  
27 corporation, partnership, agency, or firm acting directly or indirectly in the

- 1 interest of an employer in relation to an employee; and
- 2 (e) "Employee" is any person employed by or suffered or permitted to work for an
- 3 employer, except that:
- 4 1. Notwithstanding any voluntary agreement entered into between the
- 5 United States Department of Labor and a franchisee, neither a franchisee
- 6 nor a franchisee's employee shall be deemed to be an employee of the
- 7 franchisor for any purpose under this chapter; and
- 8 2. Notwithstanding any voluntary agreement entered into between the
- 9 United States Department of Labor and a franchisor, neither a franchisor
- 10 nor a franchisor's employee shall be deemed to be an employee of the
- 11 franchisee for any purpose under this chapter.

12 For purposes of this paragraph, "franchisee" and "franchisor" have the same

13 meanings as in 16 C.F.R. sec. 436.1.

14 (2) As used in KRS 337.275 to 337.325, 337.345, and 337.385 to 337.405, unless the

15 context requires otherwise:

- 16 (a) "Employee" is any person employed by or suffered or permitted to work for an
- 17 employer, but shall not include:
- 18 1. Any individual employed in agriculture;
- 19 2. Any individual employed in a bona fide executive, administrative,
- 20 supervisory, or professional capacity, or in the capacity of outside
- 21 salesman, or as an outside collector as the terms are defined by
- 22 administrative regulations of the commissioner;
- 23 3. Any individual employed by the United States;
- 24 4. Any individual employed in domestic service in or about a private home.
- 25 The provisions of this section shall include individuals employed in
- 26 domestic service in or about the home of an employer where there is
- 27 more than one (1) domestic servant regularly employed;

- 1           5. Any individual classified and given a certificate by the commissioner  
2           showing a status of learner, apprentice, worker with a disability,  
3           sheltered workshop employee, and student under administrative  
4           procedures and administrative regulations prescribed and promulgated  
5           by the commissioner. This certificate shall authorize employment at the  
6           wages, less than the established fixed minimum fair wage rates, and for  
7           the period of time fixed by the commissioner and stated in the certificate  
8           issued to the person;
- 9           6. Employees of retail stores, service industries, hotels, motels, and  
10          restaurant operations whose average annual gross volume of sales made  
11          for business done is less than ninety-five thousand dollars (\$95,000) for  
12          the five (5) preceding years exclusive of excise taxes at the retail level or  
13          if the employee is the parent, spouse, child, or other member of his or  
14          her employer's immediate family;
- 15          7. Any individual employed as a baby-sitter in an employer's home, or an  
16          individual employed as a companion by a sick, convalescing, or elderly  
17          person or by the person's immediate family, to care for that sick,  
18          convalescing, or elderly person and whose principal duties do not  
19          include housekeeping;
- 20          8. Any individual engaged in the delivery of newspapers to the consumer;
- 21          9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A,  
22          30A, and 18A provided that the secretary of the Personnel Cabinet shall  
23          have the authority to prescribe by administrative regulation those  
24          emergency employees, or others, who shall receive overtime pay rates  
25          necessary for the efficient operation of government and the protection of  
26          affected employees;
- 27          10. Any employee employed by an establishment which is an organized

- 1 nonprofit camp, religious, or nonprofit educational conference center, if  
2 it does not operate for more than two hundred ten (210) days in any  
3 calendar year;
- 4 11. Any employee whose function is to provide twenty-four (24) hour  
5 residential care on the employer's premises in a parental role to children  
6 who are primarily dependent, neglected, and abused and who are in the  
7 care of private, nonprofit childcaring facilities licensed by the Cabinet  
8 for Health and Family Services under KRS 199.640 to 199.670; or
- 9 12. Any individual whose function is to provide twenty-four (24) hour  
10 residential care in his or her own home as a family caregiver and who is  
11 approved to provide family caregiver services to an adult with a  
12 disability through a contractual relationship with a community board for  
13 mental health or individuals with an intellectual disability established  
14 under KRS 210.370 to 210.460, or is certified or licensed by the Cabinet  
15 for Health and Family Services to provide adult foster care;
- 16 (b) "Agriculture" means farming in all its branches, including cultivation and  
17 tillage of the soil; dairying; production, cultivation, growing, and harvesting of  
18 any agricultural or horticultural commodity; raising of livestock, bees,  
19 furbearing animals, or poultry; and any practice, including any forestry or  
20 lumbering operations, performed on a farm in conjunction with farming  
21 operations, including preparation and delivery of produce to storage, to  
22 market, or to carriers for transportation to market;
- 23 (c) "Gratuity" means voluntary monetary contribution received by an employee  
24 from a guest, patron, or customer for services rendered;
- 25 (d) "Tipped employee" means any employee engaged in an occupation in which  
26 he or she customarily and regularly receives more than thirty dollars (\$30) per  
27 month in tips; and

1 (e) "U.S.C." means the United States Code.

2 **(3) As used in Sections 7 to 17 of this Act, unless the context requires otherwise:**

3 **(a) "Construction" includes construction, reconstruction, improvement,**  
4 **enlargement, alteration, or repair of any public works project by contract**  
5 **fairly estimated to cost more than two hundred fifty thousand dollars**  
6 **(\$250,000). No public works project, if procured under a single contract and**  
7 **subject to the requirements of this section, may be divided into multiple**  
8 **contracts of lesser value to avoid compliance with the provisions of this**  
9 **section;**

10 **(b) "Contractor" and "subcontractor" include any superintendent, foreman, or**  
11 **other authorized agent of any contractor or subcontractor who is in charge**  
12 **of the construction of the public works or who is in charge of the**  
13 **employment or payment of the employees of the contractor or subcontractor**  
14 **who are employed in performing the work to be done or being done by the**  
15 **contractor or subcontractor under the particular contract with any public**  
16 **authority;**

17 **(c) 1. "Locality" shall be determined by the commissioner. The**  
18 **commissioner may designate more than one (1) county as a single**  
19 **locality, but if more than one (1) county is designated, the multicounty**  
20 **locality shall not extend beyond the boundaries of a state Senatorial**  
21 **district. The commissioner shall not designate less than an entire**  
22 **county as a locality. If there is not available in the locality a sufficient**  
23 **number of competent, skilled laborers, workmen, and mechanics to**  
24 **efficiently and properly construct the public works, "locality" shall**  
25 **include any other locality nearest the one in which the work of**  
26 **construction is to be performed and from which such available skilled**  
27 **laborers, workmen, and mechanics may be obtained in sufficient**

1                   number to perform the work; and

2                   2. "Locality" with respect to contracts advertised or awarded by the  
3                   Transportation Cabinet of this state shall be determined by the  
4                   secretary of the Transportation Cabinet. The secretary may designate  
5                   any number of counties as constituting a single locality. The secretary  
6                   may also designate all counties of the Commonwealth as a single  
7                   locality, but he or she shall not designate less than an entire county as  
8                   a locality;

9                   (d) "Public authority" means any officer, board, or commission of this state, or  
10                   any political subdivision or department thereof in the state, or any  
11                   institution supported in whole or in part by public funds, including publicly  
12                   owned or controlled corporations, authorized by law to enter into any  
13                   contract for the construction of public works and any nonprofit corporation  
14                   funded to act as an agency and instrumentality of the government agency in  
15                   connection with the construction of public works, and any "private  
16                   provider," as defined in KRS 197.500, which enters into any contract for  
17                   the construction of an "adult correctional facility," as defined in KRS  
18                   197.500; and

19                   (e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches,  
20                   sewage disposal plants, waterworks, and all other structures or work,  
21                   including "adult correctional facilities," as defined in KRS 197.500,  
22                   constructed under contract with any public authority.

23                   (4) If the federal government or any of its agencies furnishes by loans or grants any  
24                   part of the funds used in constructing public works, and if the federal  
25                   government or its agencies prescribe predetermined prevailing minimum wages  
26                   to be paid to mechanics, workmen, and laborers employed in the construction of  
27                   the public works, and if Sections 7 to 17 is also applicable, those wages in each

1        *classification which are higher shall prevail.*

2        ➔Section 6. KRS 337.990 is amended to read as follows:

3        The following civil penalties shall be imposed, in accordance with the provisions in KRS  
4        336.985, for violations of the provisions of this chapter:

- 5        (1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be  
6        assessed a civil penalty of not less than one hundred dollars (\$100) nor more than  
7        one thousand dollars (\$1,000) for each offense. Each failure to pay an employee the  
8        wages when due him under KRS 337.020 shall constitute a separate offense.
- 9        (2) Any employer who violates KRS 337.050 shall be assessed a civil penalty of not  
10       less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- 11       (3) Any employer who violates KRS 337.055 shall be assessed a civil penalty of not  
12       less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)  
13       for each offense and shall make full payment to the employee by reason of the  
14       violation. Each failure to pay an employee the wages as required by KRS 337.055  
15       shall constitute a separate offense.
- 16       (4) Any employer who violates KRS 337.060 shall be assessed a civil penalty of not  
17       less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)  
18       and shall also be liable to the affected employee for the amount withheld, plus  
19       interest at the rate of ten percent (10%) per annum.
- 20       (5) Any employer who violates the provisions of KRS 337.065 shall be assessed a civil  
21       penalty of not less than one hundred dollars (\$100) nor more than one thousand  
22       dollars (\$1,000) for each offense and shall make full payment to the employee by  
23       reason of the violation.
- 24       (6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty  
25       of not less than one hundred dollars (\$100) nor more than one thousand dollars  
26       (\$1,000) for each offense and each day that the failure continues shall be deemed a  
27       separate offense.



- 1 (7) Any employer who violates any provision of KRS 337.275 to 337.325, KRS  
2 337.345, and KRS 337.385 to 337.405, or willfully hinders or delays the  
3 commissioner or the commissioner's authorized representative in the performance  
4 of his or her duties under KRS 337.295, or fails to keep and preserve any records as  
5 required under KRS 337.320 and 337.325, or falsifies any record, or refuses to  
6 make any record or transcription thereof accessible to the commissioner or the  
7 commissioner's authorized representative shall be assessed a civil penalty of not less  
8 than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000). A  
9 civil penalty of not less than one thousand dollars (\$1,000) shall be assessed for any  
10 subsequent violation of KRS 337.285(4) to (9) and each day the employer violates  
11 KRS 337.285(4) to (9) shall constitute a separate offense and penalty.
- 12 (8) Any employer who pays or agrees to pay wages at a rate less than the rate applicable  
13 under KRS 337.275 and 337.285, or any wage order issued pursuant thereto shall be  
14 assessed a civil penalty of not less than one hundred dollars (\$100) nor more than  
15 one thousand dollars (\$1,000).
- 16 (9) Any employer who discharges or in any other manner discriminates against any  
17 employee because the employee has made any complaint to his or her employer, to  
18 the commissioner, or to the commissioner's authorized representative that he or she  
19 has not been paid wages in accordance with KRS 337.275 and 337.285 or  
20 regulations issued thereunder, or because the employee has caused to be instituted  
21 or is about to cause to be instituted any proceeding under or related to KRS  
22 337.385, or because the employee has testified or is about to testify in any such  
23 proceeding, shall be deemed in violation of KRS 337.275 to 337.325, KRS 337.345,  
24 and KRS 337.385 to 337.405 and shall be assessed a civil penalty of not less than  
25 one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- 26 (10) Any employer who violates KRS 337.365 shall be assessed a civil penalty of not  
27 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

1 (11) A person shall be assessed a civil penalty of not less than one hundred dollars  
2 (\$100) nor more than one thousand dollars (\$1,000) when that person discharges or  
3 in any other manner discriminates against an employee because the employee has:

4 (a) Made any complaint to his or her employer, the commissioner, or any other  
5 person; or

6 (b) Instituted, or caused to be instituted, any proceeding under or related to KRS  
7 337.420 to 337.433; or

8 (c) Testified, or is about to testify, in any such proceedings.

9 **(12) Any person who violates Section 14 of this Act shall be assessed a civil penalty of**  
10 **not less than one hundred dollars (\$100) nor more than one thousand dollars**  
11 **(\$1,000).**

12 **(13) Any contractor or subcontractor who violates any wage or work hours provision**  
13 **in any contract under Sections 7 to 17 of this Act shall be assessed a civil penalty**  
14 **of not less than one hundred dollars (\$100) nor more than one thousand dollars**  
15 **(\$1,000) for each offense, and the contractor or subcontractor shall make full**  
16 **restitution to all employees to whom he or she is legally indebted by reason of**  
17 **said violation. The prime contractor shall be jointly and severally liable with a**  
18 **subcontractor for wages due an employee of the subcontractor. For a flagrant or**  
19 **repeated violation, the offending contractor or subcontractor shall be barred from**  
20 **bidding on, or working on, any and all public works contracts, either in his or her**  
21 **name or in the name of any other company, firm, or other entity in which he or**  
22 **she might be interested for a period of two (2) years from the date of the last**  
23 **offense. Each day of violation, shall constitute a separate offense, and the**  
24 **violation as affects each individual worker shall constitute a separate offense.**

25 **(14) Any public authority, public official, or member of a public authority who**  
26 **willfully fails to comply or to require compliance with Sections 7 to 17 of this Act**  
27 **shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor**

1 more than one thousand dollars (\$1,000) for each offense. Each day of violation  
2 shall constitute a separate offense. If a public authority, public official or  
3 member of a public authority willfully or negligently fails to comply with Sections  
4 7 to 17 of this Act, and the failure results in damages, injury or loss to any  
5 person, the public authority, public official, or member of a public authority may  
6 be held liable in a civil action.

7 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO  
8 READ AS FOLLOWS:

9 For the purposes of Sections 7 to 17 of this Act, the term "prevailing wage" for each  
10 classification of laborers, workmen, and mechanics engaged in the construction of  
11 public works within the Commonwealth of Kentucky, means the sum of:

12 (1) The basic hourly rate paid or being paid subsequent to the commissioner's most  
13 recent wage determination to the majority of laborers, workmen, and mechanics  
14 employed in each classification of construction upon reasonably comparable  
15 construction in the locality where the work is to be performed. Such rate shall be  
16 determined by the commissioner in accordance with paragraphs (a), (b), and (c)  
17 of subsection (3) of Section 10 of this Act. If there is not a majority paid at the  
18 same rate, then the basic hourly rate of pay shall be the average basic hourly rate  
19 which shall be determined by adding the basic hourly rates paid to all workers in  
20 the classification and dividing by the total number of such workers; and

21 (2) An additional amount per hour equal to the hourly rate of contribution  
22 irrevocably made or to be made by an employer on behalf of employees within  
23 each classification of construction to a trustee or to a third person pursuant to an  
24 enforceable commitment to carry out a financially responsible plan or program,  
25 which was communicated in writing to the employees affected, for the following  
26 fringe benefits: medical or hospital care, pensions on retirement, death  
27 compensation for injuries or illness resulting from occupational activity or

1 insurance to provide any of the foregoing, unemployment benefits, life insurance,  
2 disability and sickness insurance, accident insurance, vacation and holiday pay,  
3 defraying costs of apprenticeship or other similar programs, or other bona fide  
4 fringe benefits, but only where the employer is not required by other federal,  
5 state, or local law to provide any of such benefits; provided, the additional  
6 amount may, at the discretion of the employer, be paid either in cash to the  
7 employee or by contributions for fringe benefits, or partly in cash and partly by  
8 such contributions, it being the intention of this subsection to recognize fringe  
9 benefits as a part of the prevailing wage rate where made in accordance with this  
10 subsection.

11 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO  
12 READ AS FOLLOWS:

13 (1) Before advertising for bids or entering into any contract for construction of  
14 public works, every public authority shall notify the department in writing of the  
15 specific public work to be constructed, and shall ascertain from the department  
16 the prevailing rates of wages for each classification of laborers, workmen, and  
17 mechanics for the class of work called for in the construction of such public  
18 works in the locality where the work is to be performed. This schedule of the  
19 prevailing rate of wages shall include a statement that it has been determined in  
20 accordance with the provisions of Sections 7 to 17 of this Act and shall be  
21 attached to and made part of the specifications for the work and shall be printed  
22 on the bidding blanks and made a part of every contract for the construction of  
23 public works.

24 (2) The public authority advertising and awarding the contract shall cause to be  
25 inserted in the proposal and contract a stipulation to the effect that not less than  
26 the prevailing hourly rate of wages as determined by the commissioner shall be  
27 paid to all laborers, workmen, and mechanics performing work under the

1 contract. It shall also require in all the contractor's bonds that the contractor  
2 include such provisions as will guarantee the faithful performance of the  
3 prevailing hourly wage clause as provided by contract. It shall be the duty of the  
4 public authority awarding the contract, and its agents and officers, to take  
5 cognizance of all complaints of all violations of the provisions of Sections 7 to 17  
6 of this Act committed in the course of the execution of the contract, and when  
7 making payments to the contractor becoming due under the contract, to withhold,  
8 and retain therefrom all sums and amounts due and owing as a result of any  
9 violation thereof. It shall be lawful for any contractor to withhold from any  
10 subcontractor under him sufficient sums to cover any penalties withheld from  
11 him by the awarding authority, on account of the subcontractor's failure to  
12 comply with the terms thereof and if payment has already been made to him or  
13 her, the contractor may recover from him or her the amount of the penalty in a  
14 suit at law.

15 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO  
16 READ AS FOLLOWS:

17 (1) No public official, authorized to contract for or construct public works shall fail,  
18 before advertising for bids or undertaking such construction, to ascertain from  
19 the commissioner the prevailing rates of wages as provided in Sections 7 to 17 of  
20 this Act.

21 (2) No member of a public authority authorized to contract for or construct public  
22 works shall vote for the award of any contract for the construction of such public  
23 works, or vote for the disbursement of any funds on account of the construction  
24 of such public works, unless such public authority has first ascertained from the  
25 commissioner the prevailing rates of wages of laborers, workmen, and mechanics  
26 for the classes of work called for by such public works in the locality where the  
27 work is to be performed and the determination of prevailing wages has been

1 made a part of the proposal specifications and contract for such public works.

2 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO  
3 READ AS FOLLOWS:

4 (1) The commissioner shall make initial determinations and current revisions of  
5 schedules of rates of prevailing wages, of the amount of fringe benefits included  
6 as defined in Section 7 of this Act, and the number of hours applicable. The  
7 commissioner may promulgate administrative regulations to carry out the  
8 provisions and purposes of Sections 7 to 17 of this Act and to prevent their  
9 circumvention or evasion. The administrative regulations shall not include a  
10 provision that each contractor and subcontractor furnish a sworn affidavit with  
11 respect to the wages paid each employee. No administrative regulation shall be  
12 issued by the commissioner except upon reasonable notice to, and opportunity to  
13 be heard by, any interested person.

14 (2) The commissioner shall require the filing of all wage contracts of all laborers,  
15 workmen, and mechanics in this state which have been agreed to between bona  
16 fide organizations of labor and an employer or associations of employers. The  
17 contracts shall be filed within ten (10) days after they are signed.

18 (3) The commissioner shall have the authority to determine schedules and current  
19 revisions of the rates of prevailing wages as defined in Section 7 of this Act, but  
20 in no case shall the commissioner determine wages to be paid for a legal day's  
21 work to laborers, workmen, and mechanics engaged in the construction of public  
22 works at less than the prevailing wages paid in the localities. The commissioner,  
23 in determining what rates of wages prevail, shall consider the following criteria:

24 (a) Wage rates paid on previous public works constructed in the localities. In  
25 considering the rates, the commissioner shall ascertain, insofar as  
26 practicable, the names and addresses of the contractors, including  
27 subcontractors, the locations, approximate costs, dates of construction and

1           types of projects, the number of workers employed on each project, and the  
2           respective wage rates paid each worker who was engaged in the  
3           construction of these projects;

4           (b) Wage rates previously paid on reasonably comparable private construction  
5           projects constructed in the localities. In considering the rates the  
6           commissioner shall ascertain, insofar as practicable, the names and  
7           addresses of the contractors, including subcontractors, the locations,  
8           approximate costs, dates of construction and types of projects, the number  
9           of workers employed on each project, and the respective wage rates paid  
10           each worker who was engaged in the construction of these projects; and

11           (c) Collective bargaining agreements or understandings between bona fide  
12           organizations of labor and their employers located in the Commonwealth of  
13           Kentucky which agreements apply or pertain to the localities in which the  
14           public works are to be constructed.

15           (4) The wage rates to be used by the public authority in a contract for the  
16           construction of public works shall be the prevailing wage as of the date the public  
17           works project is advertised and offered for bid. If contracts are not awarded  
18           within ninety (90) days after the date of offering for bid, the public authority shall  
19           ascertain the prevailing rate of wages from the department before the contract is  
20           awarded. The schedule or scale of prevailing wages shall be incorporated in and  
21           made a part of each contract.

22           (5) The commissioner may promulgate administrative regulations authorizing the  
23           employment of apprentices and trainees in skilled trades at wages lower than the  
24           applicable prevailing wage.

25           ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO  
26 READ AS FOLLOWS:

27           (1) The commissioner or the commissioner's authorized representative shall conduct

1 a public hearing for the purpose of making initial determinations or current  
2 revisions of a prevailing wage schedule for the construction of public works  
3 pertaining to a locality. The commissioner shall, within sixty (60) days of the  
4 hearing, publish his or her wage determination. The hearing shall be conducted  
5 in the locality after notice has been given as provided in subsection (3) of this  
6 section. The commissioner shall not be required to utilize this section in any  
7 locality where the United States Department of Labor has issued a prevailing  
8 wage under the Davis-Bacon or related acts, in which case, the commissioner  
9 may adopt the wage schedule and any modifications issued by the United States  
10 Department of Labor and published in the Federal Register.

11 (2) A public authority or any interested person may request and shall be granted an  
12 additional hearing solely for the purpose of having considered a review of the  
13 commissioner's determination of the prevailing wage schedule for the  
14 construction of public works in the locality; after notice has been given as  
15 provided in subsection (3) of this section, the hearing shall be conducted in the  
16 locality by a prevailing wage review board consisting of one (1) member  
17 representing employers in the construction industry, one (1) member representing  
18 labor in the construction industry, and one (1) member appointed by the public  
19 authority requesting the hearing. The member appointed by the public authority  
20 shall reside in the locality in which the public works are to be constructed. The  
21 members of the board representing employers in the construction industry and  
22 labor in the construction industry shall be appointed for periods of not more than  
23 four (4) years by the Governor from a list of prospective members recommended  
24 by bona fide associations representing the construction industry and bona fide  
25 labor organizations representing workers employed in the construction industry,  
26 and the members shall serve on the board for all hearings during their tenure.  
27 Prevailing wage review boards shall have the authority to revise prevailing wage



1 schedules for the construction of public works; however, the revisions shall be  
2 governed by the same criteria and regulations governing wage determinations of  
3 the commissioner. A revision of a prevailing wage schedule for the construction  
4 of public works shall require a vote of a majority of the members. The members  
5 of a prevailing wage review board shall receive their actual necessary expenses  
6 incurred in carrying out their duties and the expenses shall be paid out of the  
7 general fund of the Commonwealth of Kentucky.

8 (3) Notice of hearings as required in subsections (1) and (2) of this section shall be  
9 given by advertising one (1) time in the newspaper having the largest circulation  
10 in the locality, and the advertisement shall be run not less than ten (10) nor more  
11 than twenty (20) days prior to the date of the hearing. The advertisement shall set  
12 forth all pertinent information of the hearing regarding the time, place, and  
13 purpose of the hearing.

14 (4) The prevailing wage review boards shall be attached to the Labor Cabinet for  
15 administrative purposes.

16 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO  
17 READ AS FOLLOWS:

18 If a review of the commissioner's determination is requested pursuant to subsection (2)  
19 of Section 11 of this Act, the wage rates to be used by the public authority in a contract  
20 for the construction of public works advertised during the pendency of the proceedings  
21 provided in subsection (2) of Section 11 of this Act, or on appeal pursuant to Section  
22 13 of this Act, shall be the latest rate determined by the commissioner and which is  
23 being reviewed. The public authority shall place in its advertisement, bid documents,  
24 and contracts, a statement to the effect that the prevailing wage rates contained therein  
25 are presently being reviewed and subject to change by appropriate reviewing  
26 authorities, and if said rates are modified or altered, the contractors shall be  
27 responsible for the payment of the wage rates finally determined. Should any rates be

1 increased from that determined by the commissioner, the contractor may recover from  
2 the public authority any additional sums of money which he or she may be required to  
3 pay as a result of said wage modification or alteration. Should any rates be decreased  
4 from that determined by the commissioner, the public authority shall be barred from  
5 any recovery of the difference previously earned by or paid to employees.

6 ➔SECTION 13. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO  
7 READ AS FOLLOWS:

8 (1) Any person or party claiming to be aggrieved by any final determination of  
9 prevailing wages by the prevailing wage review board may appeal to the Franklin  
10 Circuit Court. The appeal shall state fully the grounds upon which an appeal is  
11 sought and assign all errors relied upon. A copy of the appeal and summons shall  
12 be served upon the Department of Workplace Standards and the members of the  
13 prevailing wage review board and within thirty (30) days after such service, or  
14 within such further time as the court may allow, the department on behalf of the  
15 prevailing wage review board shall submit to the court a certified copy of all  
16 matters considered by the prevailing wage review board from which it made its  
17 final wage determination.

18 (2) No new or additional evidence may be introduced in the Franklin Circuit Court  
19 except as to the fraud or misconduct of some person engaged in the  
20 administration of this chapter and affecting the order, ruling, or award. The  
21 court shall otherwise hear the appeal upon the record as certified by the  
22 Department of Workplace Standards and shall dispose of same in summary  
23 manner. The court shall not substitute its judgment for that of the prevailing  
24 wage review board, the court's review being limited to determining whether or  
25 not:

26 (a) The prevailing wage review board acted without or in excess of its powers;

27 (b) The prevailing wage review board's final wage determination was procured

- 1           by fraud;
- 2           (c) The determination is not in conformity with the provisions of this chapter;
- 3           (d) The determination is clearly erroneous on the basis of the information
- 4           contained in the record; or
- 5           (e) The final wage determination is arbitrary or capricious.
- 6           (3) The Franklin Circuit Court thereafter shall enter an order affirming or setting
- 7           aside the prevailing wage review board's wage determination. The court may also
- 8           remand the case to the prevailing wage review board for further proceedings.
- 9           (4) An appeal may be taken to the Court of Appeals from any decision of the
- 10           Franklin Circuit Court under this section.

11           ➔SECTION 14. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO

12 READ AS FOLLOWS:

- 13           (1) Where a prevailing rate of wages has been determined and prescribed, the
- 14           contract executed between a public authority and the successful bidder or
- 15           contractor shall contain a provision requiring the successful bidder and all of his
- 16           or her subcontractors to pay not less than the rate of wages so established. The
- 17           successful bidder or contractor and all subcontractors shall strictly comply with
- 18           these provisions of the contract.
- 19           (2) All contractors and subcontractors required by Sections 7 to 17 of this Act and by
- 20           contracts with any public authority to pay not less than the prevailing rate of
- 21           wages, shall pay such wages in legal tender without any deductions. These
- 22           provisions shall not apply where the employer and employee enter into an
- 23           agreement in writing at the beginning of or during any term of employment
- 24           covering deductions for food, sleeping accommodations or any similar item if this
- 25           agreement is submitted by the employer to the department and is approved by the
- 26           department as fair and reasonable. All contractors and subcontractors affected by
- 27           the terms of Sections 7 to 17 of this Act shall keep full and accurate payroll

1 records covering all disbursements of wages to their employees to whom they are  
2 required to pay not less than the prevailing rate of wages. Such records shall  
3 indicate the hours worked each day by each employee in each classification of  
4 work and the amount paid each employee for his or her work in each  
5 classification. They shall be open to the inspection and transcript of the  
6 commissioner or the commissioner's authorized representative at any reasonable  
7 time, and shall be in compliance with all regulations issued by the commissioner.  
8 These payroll records shall not be destroyed or removed from this state for one  
9 (1) year following the completion of the improvement in connection with which  
10 they are made.

11 (3) Each contractor and subcontractor subject to the provisions of Sections 7 to 17 of  
12 this Act shall post and keep posted in a conspicuous place or places at the site of  
13 the construction work a copy or copies of prevailing rates of wages and working  
14 hours as prescribed in the contract with the public authority, showing the rates of  
15 wages prescribed and the working hours for each class of laborers, workmen, and  
16 mechanics employed by him or her in the work of constructing the public works  
17 provided for in the contract with the public authority.

18 (4) Every employer shall permit the commissioner or the commissioner's authorized  
19 agents to question any of his or her employees at the site of the public work and  
20 during work hours in respect to the wages paid, hours worked, and duties of such  
21 employee or other employees.

22 ➔SECTION 15. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO  
23 READ AS FOLLOWS:

24 (1) Every public authority, before advertising for bids, shall include with the  
25 schedule of wages a provision that no laborer, workman, or mechanic shall be  
26 permitted to work more than eight (8) hours in one (1) calendar day, which shall  
27 constitute a legal day's work; nor more than forty (40) hours in one (1) week,

1 which shall constitute a legal workweek, except in cases of emergency caused by  
2 fire, flood, or damage to life or property. This limitation of work hours shall be  
3 made a part of the specifications for the work and printed on bid blanks where  
4 the work is done by contract and shall be incorporated as a part of each contract.  
5 This shall not prohibit any laborer, workman, or mechanic from working more  
6 than eight (8) hours in one (1) calendar day, but not more than ten (10) hours in  
7 one (1) calendar day where the employee and employer enter into an agreement  
8 in writing prior to the working of any one (1) day in excess of eight (8) hours, or  
9 where provided for in a collective bargaining agreement.

10 (2) No laborer, workman, or mechanic shall be permitted to work more than eight (8)  
11 hours in any one (1) calendar day, nor more than forty (40) hours in any one (1)  
12 week, except in cases of emergency caused by fire, flood, or damage to life or  
13 property, on the construction of public works which is being constructed under  
14 contract with any public authority. This shall not prohibit any laborer, workman,  
15 or mechanic from working more than eight (8) hours in one (1) calendar day, but  
16 not more than ten (10) hours in one (1) calendar day where the employee and  
17 employer enter into an agreement in writing prior to the working of any one (1)  
18 day in excess of eight (8) hours, or where provided for in a collective bargaining  
19 agreement.

20 (3) Any laborer, workman, or mechanic worked in excess of eight (8) hours per day  
21 or forty (40) hours per week, except in cases of emergency shall be paid not less  
22 than one and one-half (1-1/2) times the basic hourly rate of pay as defined and  
23 fixed under this chapter for all overtime worked, and each contract with any  
24 public authority for the construction of public works shall so provide. In any case  
25 where a laborer, workman, or mechanic works in excess of eight (8) hours per  
26 day, but not more than ten (10) hours per day in accordance with subsection (2)  
27 of this section, it will not be a violation of this subsection provided the laborer,

1       workman, or mechanic who works in excess of ten (10) hours in any one (1)  
2       calendar day shall be paid not less than one and one-half (1-1/2) times the basic  
3       hourly rate of pay.

4       (4) The determination of exception provided in this section of when an emergency  
5       exists shall be made by the public authority letting the contract.

6       ➔SECTION 16. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO  
7       READ AS FOLLOWS:

8       If it is found that a public authority has not complied with Sections 7 to 17 of this Act,  
9       the commissioner shall give notice thereof in writing to such public authority.  
10       Sufficient time may be allowed for compliance therewith as the commissioner deems  
11       necessary. After the expiration of the time prescribed in the notice, the department  
12       shall at the earliest possible time bring suit in the Circuit Court of the county in which  
13       such public body is located to enjoin the award of such contract for a public works or  
14       any further work or payments thereunder if the contract has been awarded until the  
15       requirements of such notice are complied with. The court may issue a temporary  
16       restraining order without notice to the defendant in such action. Upon final hearing  
17       thereof, if the court is satisfied that the requirements of the notice by the department to  
18       the defendant were not unreasonable or arbitrary, it shall issue an order enjoining the  
19       defendant from awarding such contract for a public works or any further work or  
20       payments thereunder if the contract has been awarded until the notice is complied  
21       with. Such injunction shall continue operative until the court is satisfied that the  
22       requirements of the notice have been complied with and the court shall have and  
23       exercise with respect to the enforcement of such injunctions all the power invested in it  
24       in other similar cases. Both the plaintiff and the defendant in such action have the  
25       same rights of appeal as are provided by law in other injunction actions.

26       ➔SECTION 17. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO  
27       READ AS FOLLOWS:

- 1 (1) Any laborer, workman, or mechanic employed on public works may file a  
2 complaint of any violation of any provision of Sections 7 to 17 of this Act with the  
3 department. The department shall assist him or her in the collection of claims of  
4 wages due him or her and shall also assist to the fullest extent in the  
5 administration and enforcement of Sections 7 to 17 of this Act. The commissioner  
6 shall investigate and enforce the provisions of Sections 7 to 17 of this Act to the  
7 fullest and shall bring all actions to collect wages due any laborer, workman, or  
8 mechanic and shall take action against any contractor or subcontractor to  
9 restrain violations of Sections 7 to 17 of this Act. If any contractor or  
10 subcontractor is found to be in violation of any provisions of Sections 7 to 17 of  
11 this Act, then the commissioner shall inform the secretary for finance and  
12 administration of the Commonwealth of Kentucky, and the secretary for finance  
13 and administration shall hold such contractor or subcontractor ineligible to bid  
14 on public works until such time as that contractor or subcontractor is in  
15 substantial compliance as determined by the commissioner.
- 16 (2) A laborer, workman, or mechanic may by civil action recover any sum due him  
17 or her as the result of the failure of his or her employer to comply with the terms  
18 of Sections 7 to 17 of this Act. The commissioner may also bring any legal action  
19 necessary to collect claims on behalf of any or all laborers, workmen, or  
20 mechanics. No employer shall take any punitive measure or action against an  
21 employee because such employee has made a charge, testified, assisted or  
22 participated in any manner in an investigation, proceeding, or hearing under  
23 Sections 7 to 17 of this Act. The commissioner shall not be required to pay the  
24 filing fee, or other costs, in connection with such action.