

1 AN ACT relating to public safety personnel.

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

3 ➔Section 1. KRS 90.330 is amended to read as follows:

4 (1) The civil service commission shall examine all applicants as to their physical and
5 mental qualification for the particular classification wherein they seek employment.
6 To be eligible for examination a person ***shall be at least***~~must not be less than~~
7 eighteen (18) ***years of age***~~nor have passed his or her forty sixth birthday~~, ***be*** a
8 law-abiding citizen of sobriety and integrity, and must be able to read and write and
9 understand the English language~~;~~ ~~provided, however, that any present employee~~
10 ~~who is over forty five (45) years of age and who is otherwise qualified shall be~~
11 ~~eligible to take any promotional examinations~~.

12 (2) ~~[Except for those members whose qualifications are determined under KRS 95.440,~~
13 ~~no person shall be appointed to a position under civil service until that person is a~~
14 ~~resident of the Commonwealth of Kentucky.~~

15 (3) ~~Any city legislative body that operates under this chapter may by ordinance require~~
16 ~~persons appointed to civil service positions to be a resident of the county in which~~
17 ~~the city is located.~~

18 ➔Section 2. KRS 95.010 is amended to read as follows:

19 (1) As used in KRS 95.160 to 95.290 and in KRS 95.830 to 95.845, unless the context
20 requires otherwise:

21 (a) "Dismissal" means the discharge of an employee by the division or department
22 head, civil service board, or other lawful authority;

23 (b) "Eligible list" means a list of names of persons who have been found qualified
24 through suitable competitive examinations for positions or classes of
25 positions;

26 (c) "Fire department" means the officers, firefighters, and clerical or maintenance
27 employees, including the chief of the fire department;

- 1 (d) "Member" means any person in the police or fire department, other than the
2 chief or assistant chief of the department;
- 3 (e) "Police department" means the officers, policemen, and clerical or
4 maintenance employees, including the chief of police;
- 5 (f) "Police force" means the officers and policemen of the police department,
6 other than the chief of police;
- 7 (g) "Policeman" means a member of the police department below the rank of
8 officer, other than a clerical or maintenance employee;
- 9 (h) "Salary" means any compensation received for services; and
- 10 (i) "Suspension" means the separation of an employee from the service for a
11 temporary or fixed period of time, by his appointing authority, as a
12 disciplinary measure.
- 13 (2) As used in KRS 95.440 to 95.629, the following words and terms shall have the
14 following meaning, unless the context requires otherwise:
- 15 (a) "Dismissal" means the discharge of an employee by the division or department
16 head, civil service board, or other lawful authority;
- 17 (b) "Eligible list" means a list of names of persons who have been found qualified
18 through suitable competitive examinations for positions or classes of
19 positions;
- 20 (c) "Fire department" means and includes all officers, firefighters, and clerical or
21 maintenance employees of the fire department;
- 22 (d) "Police department" means and includes all officers, policemen, and clerical
23 or maintenance employees of the police department;
- 24 (e) "Member" means any and all officers, firefighters, policemen, clerical or
25 maintenance employees in the police or fire department, except:
- 26 1. As used in subsections (1) and (3) of KRS 95.440~~[,]~~ and KRS ~~[95.450,]~~
27 95.460, 95.470, 95.550, 95.560, 95.565, 95.570 and 95.580~~[,]~~ it shall

1 not include the chief of police in an urban-county government;

2 **2. As used in Section 4 of this Act, it shall not include the chiefs of police**
3 **or fire departments or the clerical and maintenance employees of the**
4 **police or fire departments; and**

5 **3. As used in Section 6 of this Act, it shall not include the clerical and**
6 **maintenance employees of the police or fire departments;**

7 (f) "Police force" means and includes all officers and policemen in the police
8 department;

9 (g) "Policeman" means a member of the police department below the rank of
10 officer, other than a clerical or maintenance employee;

11 (h) "Firefighter" means a member of the fire department below the rank of officer,
12 other than a clerical or maintenance employee;

13 (i) "Salary" means any compensation received for services;

14 (j) "Suspension" means the separation of an employee from the service for a
15 temporary or fixed period of time, by his appointing authority, as a
16 disciplinary measure; and

17 (k) "Pension fund" shall mean the moneys derived from the members of the
18 police and fire departments' salary or salaries and appropriations by the
19 legislative body, or any other means derived from whatever source by gift or
20 otherwise to be used for the retirement of members of the police and fire
21 departments after the prescribed number of years of service, and for the
22 benefit of disabled members of police and fire departments, and for the benefit
23 of surviving spouses and dependent children or dependent fathers or mothers
24 in the case of death of any member of the police or fire department within the
25 scope of his employment.

26 (3) As used in KRS 95.761 to 95.784, the following words and terms shall have the
27 following meaning:

- 1 (a) "Regular police department." For the purpose of KRS 95.761 to 95.784, a
2 "regular police department" is defined as one having a fixed headquarters,
3 where police equipment is maintained and where a policeman or policemen
4 are in constant and uninterrupted attendance to receive and answer police
5 calls, and execute regular police patrol duties;
- 6 (b) "Regular fire department." For the purpose of KRS 95.761 to 95.784, a
7 "regular fire department" is defined as one having a fixed headquarters where
8 firefighting apparatus and equipment are maintained, and where firefighters
9 are in constant and uninterrupted attendance to receive and answer fire alarms;
- 10 (c) "Legislative body." Wherever in KRS 95.761 to 95.784 the term "body" or
11 "legislative body" is employed, it shall be construed to mean the legislative
12 branch of the city government or urban-county government;
- 13 (d) "Commission." The word "commission" shall mean the board of civil service
14 commissioners, as established under the terms of KRS 95.761 to 95.784;
- 15 (e) "Trustees." The word "trustees" shall mean the board of pension fund trustees,
16 as established under the terms of KRS 95.761 to 95.784; and
- 17 (f) "Pension fund." The term "pension fund" shall mean the moneys derived from
18 the policeman or policemen and firefighter or firefighters salary or salaries,
19 and appropriations by the legislative body, or any other sums derived from
20 whatever source by gifts or otherwise to be used for the retirement of
21 policeman or policemen and firefighter or firefighters after the prescribed
22 number of years of service and for the benefit of disabled policeman or
23 policemen and firefighter or firefighters, and for the benefit of surviving
24 spouses and dependent children or dependent fathers or mothers in the case of
25 death of a policeman or firefighter within the scope of his employment,
26 according to the terms of KRS 95.761 to 95.784.

27 ➔Section 3. KRS 95.022 is amended to read as follows:

- 1 (1) As used in this section:
- 2 (a) "City" means any incorporated city, consolidated local government, unified
3 local government, urban-county government, or charter county government,
4 operating under the law of this Commonwealth, and the offices and agencies
5 thereof; and
- 6 (b) "Police officer" has the same meaning as "police officer" in KRS 15.420 and
7 as "officer" in KRS 16.010.
- 8 (2) Subject to the limitations of subsection (7) of this section, a city may employ
9 individuals as police officers under this section who have retired from the Kentucky
10 Employees Retirement System, the County Employees Retirement System, or the
11 State Police Retirement System.
- 12 (3) To be eligible for employment under this section, an individual shall have:
- 13 (a) Participated in the Law Enforcement Foundation Program fund under KRS
14 15.410 to 15.510 or retired as a commissioned officer pursuant to KRS
15 Chapter 16;
- 16 (b) Retired with at least twenty (20) years of service credit;
- 17 (c) Been separated from service for the period required by KRS 61.637 and
18 78.5540 so that the member's retirement is not voided;
- 19 (d) Retired with no administrative charges pending; and
- 20 (e) Retired with no preexisting agreement between the individual and the city
21 prior to the individual's retirement for the individual to return to work for the
22 city.
- 23 (4) Individuals employed under this section shall:
- 24 (a) Serve for a term not to exceed one (1) year. The one (1) year employment term
25 may be renewed annually at the discretion of the employing city;
- 26 (b) Receive compensation according to the standard procedures applicable to the
27 employing city; and

- 1 (c) Be employed based upon need as determined by the employing city.
- 2 (5) Notwithstanding any provisions of KRS 16.505 to 16.652, 18A.225 to 18A.2287,
3 61.510 to 61.705, or 78.510 to 78.852 to the contrary:
- 4 (a) Individuals employed under this section shall continue to receive all
5 retirement and health insurance benefits to which they were entitled upon
6 retiring in the applicable system administered by Kentucky Retirement
7 Systems or the County Employees Retirement System;
- 8 (b) Individuals employed under this section shall not be eligible to receive health
9 insurance coverage through the employing city;
- 10 (c) The city shall not pay any employer contributions or retiree health expense
11 reimbursements to the Kentucky Retirement Systems required by KRS 61.637
12 for individuals employed under this section; and
- 13 (d) The city shall not pay any insurance contributions to the state health insurance
14 plan, as provided by KRS 18A.225 to 18A.2287, for individuals employed
15 under this section.
- 16 (6) Individuals employed under this section shall be subject to any merit system, civil
17 service, or other legislative due process provisions applicable to the employing city.
18 A decision not to renew a one (1) year appointment term under this section shall not
19 be considered a disciplinary action or deprivation subject to due process.
- 20 (7) A city government shall be limited in the number of retired police officers that it
21 may hire under this section as follows:
- 22 (a) A city government that employed an average of five (5) or fewer police
23 officers over the course of the immediately preceding calendar year~~[2015]~~
24 shall not be limited in the number of officers that they may hire under this
25 section;
- 26 (b) A city government that employed an average of more than five (5) but fewer
27 than one hundred (100) police officers over the course of the immediately

1 preceding calendar year~~[2015]~~ shall not hire more than five (5) police
 2 officers or a number equal to twenty-five percent (25%) of the police officers
 3 employed by the city in the immediately preceding calendar year~~[2015]~~,
 4 whichever is greater; and

5 (c) A city government that employed an average of one hundred (100) or more
 6 police officers over the course of calendar year 2015 shall not hire more than
 7 twenty-five (25) police officers or a number equal to ten percent (10%) of the
 8 police officers employed by the city in the immediately preceding calendar
 9 year~~[2015]~~, whichever is greater.

10 (8) Retired police officers employed by a city government for purposes of KRS
 11 158.4414 shall not apply against the limitations provided by subsection (7) of this
 12 section.

13 ➔Section 4. KRS 95.450 is amended to read as follows:

14 (1) (a) The provisions of this section shall only apply to members of police and fire
 15 departments in urban-county governments and those cities that are included in
 16 the Department for Local Government registry created pursuant to subsection
 17 (9) of this section.

18 (b) This section shall only apply to a member of the police department when the
 19 provisions of KRS 15.520 do not apply.

20 (2) Except as provided in subsection (6) of this section no member of the police or fire
 21 department in cities listed on the registry pursuant to subsection (9) of this section
 22 or an urban-county government shall be reprimanded in writing, dismissed,
 23 suspended, or reduced in grade or pay for any reason except inefficiency,
 24 misconduct, insubordination, or violation of law or of the rules adopted by the
 25 legislative body, and only after charges are preferred and a hearing conducted as
 26 provided in this section.

27 (3) (a) Any person may file a complaint~~[prefer charges]~~ against a member of the

1 ~~[police or]~~fire department by filing ~~it~~~~[them]~~ with the clerk of the legislative
2 body who shall immediately communicate the same to the legislative body.

3 **Any person may file a complaint against a member of the police department**
4 **pursuant to KRS 15.520.**

5 **(b) Subject to the provisions of KRS 15.520,** the mayor, **city manager, or**
6 **legislative body** shall, whenever probable cause appears, prefer charges
7 against any member **the mayor, city manager, or legislative body believes to**
8 **be**~~[whom he believes]~~ guilty of conduct justifying his dismissal or
9 punishment. The charges shall be written and shall set out clearly the charges
10 made.

11 **(c)** The **mayor, city manager, or legislative body**~~[person]~~ preferring the charges
12 may withdraw them at any time prior to the conclusion of the hearing. The
13 charges may thereupon be dismissed.

14 (4) **(a)** Upon the hearing all charges shall be considered traversed and put in issue,
15 and the trial shall be confined to matters related to the issues presented.
16 **Unless otherwise agreed by the legislative body and the member charged,**
17 **the legislative body**~~[Within three (3) days after the charges have been filed~~
18 ~~with the legislative body, that body]~~ shall proceed to hear the charges **within**
19 **ten (10) days after the charges were filed.**

20 **(b)** At least **five (5)**~~[two (2)]~~ days before the hearing the member accused shall be
21 served with a copy of the charges and a statement of the day, place, and hour
22 at which the hearing of the charges will begin.

23 **(c)** The **member**~~[person]~~ accused may, in writing, waive the service of charges
24 and demand trial within **ten (10)**~~[three (3)]~~ days after the charges are filed
25 with the clerk.

26 (5) The legislative body may summon and compel attendance of witnesses at hearings
27 by subpoena issued by the clerk of that body and served upon the witnesses by any

- 1 officer authorized to serve court subpoenas. If any witness fails to appear in
2 response to a summons or refuses to testify concerning any matter on which he may
3 lawfully be interrogated, any District Judge, on application of the commission, may
4 compel obedience by proceedings for contempt as in the case of disobedience of a
5 subpoena issued from the District Court. The member accused may have
6 subpoenaed any witnesses he may desire, upon furnishing their names to the clerk.
7 The action and decision of the body on the charges shall be reduced to writing and
8 entered in a book kept for that purpose, and the written charges filed in the matter
9 shall be attached to the book containing the decision.
- 10 (6) When the appointing authority or the head of the department has probable cause to
11 believe a member of the police or fire department has been guilty of conduct
12 justifying dismissal or punishment, he or she or it may suspend the member from
13 duty or from both pay and duty, pending trial, and the member shall not be placed
14 on duty, or allowed pay, until the charges are heard. If the member is suspended,
15 there shall be no continuances granted without the consent of the member accused.
- 16 (7) The legislative body shall fix the punishment of a member of the police or fire
17 department found guilty, by a reprimand in writing, suspension for any length of
18 time not to exceed six (6) months, by reducing the grade if the accused is an officer,
19 or by combining any two (2) or more of those punishments, or by dismissal from the
20 service.
- 21 (8) A member of a police or fire department found guilty pursuant to the provisions of
22 this section shall have the right to appeal to the Circuit Court under KRS 95.460.
- 23 (9) On or before January 1, 2015, the Department for Local Government shall create a
24 registry of cities that shall be required to comply with the provisions of this section.
25 The Department for Local Government shall include each of those cities on the
26 registry that were classified as cities of the second or third class as of January 1,
27 2014. The Department for Local Government shall make the information included

1 on the registry available to the public by publishing it on its Web site.

2 ➔Section 5. KRS 95.460 is amended to read as follows:

- 3 (1) Any member of the police or fire department found guilty by the legislative body of
4 any charge, as provided by KRS 95.450, may appeal to the Circuit Court of the
5 county in which the city or urban-county government is located, but the
6 enforcement of the judgment of the body shall not be suspended pending appeal.
7 The notice of the appeal shall be filed not later than thirty (30) days after the date
8 the legislative body makes its determination on the charge.
- 9 (2) Upon request of the accused, the clerk of the legislative body shall file a certified
10 copy of the charges and the judgment of that body in the Circuit Court. Upon the
11 transcript being filed, the case shall be docketed in the Circuit Court . **The Circuit**
12 **Court review of the case shall be based solely upon the administrative record**
13 **created before the legislative body and any new evidence offered by the member**
14 **regarding alleged arbitrariness on the part of the legislative body**~~and tried as an~~
15 ~~original action].~~
- 16 (3) If the clerk fails to certify the transcript to the Circuit Court within seven (7) days
17 after the request is made, the party aggrieved may file an affidavit in the Circuit
18 Court setting out as fully as possible the charges made, the time of the hearing, and
19 the judgment of the legislative body, together with a statement that demand for
20 transcript was made upon the clerk more than five (5) days before the filing of the
21 affidavit. Upon the filing of the affidavit in the Circuit Court, the case shall be
22 docketed, and the Circuit Court may compel the filing of the transcript by the clerk
23 by entering the proper mandatory order, and by fine and imprisonment for
24 contempt. The appeal shall have precedence over other business, and be determined
25 speedily.
- 26 (4) An appeal will lie from the judgment of the Circuit Court to the Court of Appeals as
27 in other cases.

1 ➔Section 6. KRS 95.495 is amended to read as follows:

2 (1) **Except as provided in Section 9 of this Act,** in cities listed on the registry pursuant
3 to subsection (3) of this section or urban-county governments, except those in
4 which, by ordinance, the patrolmen are employed or paid by the day, the members
5 of the police department shall not be required to work more than eight (8) hours per
6 day, for five (5) days each week or ten (10) hours per day, for four (4) days each
7 week, except in the event of an emergency. Each member of the police department
8 shall have an annual leave of fifteen (15) working days with full pay. Nothing in
9 this section shall prohibit a member of the police department from voluntarily
10 agreeing to work a different work schedule provided that the officer is paid
11 overtime for any work performed in excess of forty (40) hours per week.

12 (2) The salary of the members of the police department shall not be reduced by reason
13 of the enactment of this section.

14 (3) On or before January 1, 2015, the Department for Local Government shall create a
15 registry of cities that shall comply with the provisions of this section. The
16 Department for Local Government shall include each of those cities on the registry
17 that were classified as cities of the second or third class on August 1, 2014. The
18 Department for Local Government shall make the information included on the
19 registry available to the public by publishing it on its Web site.

20 ➔Section 7. KRS 95.762 is amended to read as follows:

21 (1) The commission shall require all applicants for appointments as members of the
22 police or fire departments to be examined as to their qualifications to fill the office
23 of policeman or firefighter, and as to their knowledge of the English language, and
24 as to the law and rules governing the duties of policemen and firefighters. Every
25 member of the police or fire department shall be able to read and write and
26 understand the English language, and have such other general qualifications as may
27 be prescribed.

- 1 (2) No person shall be appointed a member of the police or fire departments unless he
2 is well known to be a person of sobriety and integrity, and has been and is an
3 orderly, law-abiding citizen, nor shall any person be appointed as a member of said
4 police or fire departments on account of any political, partisan service rendered by
5 him or on account of political sentiments or affiliations~~[, or who is under twenty-~~
6 ~~one (21) years of age or over forty (40), unless the applicant has had as much as five~~
7 ~~(5) years' experience as a regular policeman or firefighter and is not over fifty five~~
8 ~~(55) years of age].~~ No member of the police or fire departments shall be removed or
9 discharged or reduced in grade or pay for any political partisan opinion. The
10 appointment and continuance upon the police and fire departments shall depend
11 solely upon the ability and willingness of a person to comply with the rules of the
12 said departments and to perform the duties of said departments. No appointment to
13 or continuance as a member of a police or fire department shall be as a reward for
14 political activity nor be obtained by political services or contributions to campaign
15 funds.
- 16 (3) The examination and qualifications provided for in this section shall not apply to
17 the members of the regular police and fire departments at this time, who have been
18 continuously in the service for a period of three (3) years.
- 19 (4) Members of police and fire departments otherwise qualified under this law shall
20 hold their positions during good behavior, provided, however, that the provisions of
21 KRS 95.761 to 95.784 shall not prevent the said city legislative body from
22 increasing or decreasing the number of policemen or firefighters, as may be deemed
23 proper from time to time, and provided further, that in the event the said city
24 legislative body decreases the number of policemen or firefighters, the youngest
25 member in point of service shall be the first to be reduced and returned to the
26 eligible list and to advance according to the rules and regulations of said
27 department.

1 (5) The civil service commission may provide that appointments for initial permanent
2 employment may be probationary appointments for a period of not more than
3 twelve (12) months, after which probationary period regular appointments shall be
4 given to all probationary employees who are deemed to be satisfactory by the
5 respective appointing authority.

6 ➔Section 8. KRS 95.765 is amended to read as follows:

7 (1) (a) No member of the police or fire departments shall be removed from the
8 department or reduced in grade upon any reason except inefficiency,
9 misconduct, insubordination or violation of law, or violation of the rules
10 adopted for the departments.

11 (b) Any person may file a complaint~~[prefer charges]~~ against a member of the fire
12 department~~[police or fire departments]~~, which shall~~[must]~~ be filed in the
13 office of the mayor, who shall notify~~[thereupon communicate said charges~~
14 ~~without delay to]~~ the legislative body without delay. Any person may file a
15 complaint against a member of the police department under KRS 15.520.

16 (c) Any complaint shall~~[Said charges must]~~ be written, signed by the person
17 making the allegations,~~[such charges]~~ and shall~~[must]~~ set out with clearness
18 and distinctness each and every allegation~~[charge]~~.

19 (d) Subject to the provisions of KRS 15.520, it shall be the duty of the mayor and
20 ~~[each member of]~~ the legislative body, whenever probable cause appears, to
21 prefer charges against any member of the police or fire departments whom he
22 or she believes to have been guilty of any conduct justifying his or her
23 removal or punishment in the interest of public order.

24 (e) The charges~~[thus]~~ filed shall be written and shall set out with distinctness and
25 clearness the charges made, and upon the hearing of any charges, as
26 hereinafter provided, all~~[said]~~ charges shall be considered traversed, and put
27 in issue, and the trial shall be confined to matters related to the issue so

1 presented.

2 **(f)** All charges against members of the police or fire departments shall be filed
3 with the clerk of the legislative body, ~~and~~ Within **ten (10)**~~three (3)~~ days
4 after ~~said~~ filing, the legislative body shall proceed to hear and examine
5 **the**~~said~~ charges **unless otherwise agreed by the legislative body and the**
6 **member charged**; provided **five (5)**~~two (2)~~ days before **the**~~said~~ hearing the
7 member ~~of the police or fire departments, accused,~~ has been served with a
8 copy of **the**~~said~~ charges, and a statement of the day, place, and hour at which
9 and when the hearing of **the**~~said~~ charges shall begin.

10 **(g)** The **member**~~person~~ accused may ~~however, in writing,~~ waive ~~the~~ service
11 of **the**~~said~~ charges **in writing**, and demand trial within **ten (10)**~~three (3)~~
12 days after **the**~~said~~ charges are filed with the clerk of **the**~~said~~ legislative
13 body.

14 **(h)** The legislative body **shall**~~will~~ have the power to summon and compel the
15 attendance of witnesses at all hearings or sittings by **the**~~said~~ body, upon
16 subpoena issued by the clerk of **the**~~said~~ body, and served upon **the**~~said~~
17 witnesses by any officer authorized to serve subpoenas from any court of
18 justice in the county. If any witness fails to appear in response to a summons
19 or refuses to testify concerning any matter on which he **or she** may lawfully be
20 interrogated, any District Judge, on application of the commission, may
21 compel obedience by proceedings for contempt as in the case of disobedience
22 of a subpoena issued from the District Court.

23 **(i)** The **member accused**~~member of the police or fire department, the accused,~~
24 shall have the right to have subpoenaed, **on his or her**~~in his~~ behalf, any
25 witness he **or she** may desire, upon furnishing their names to the clerk of
26 **the**~~said~~ body, and the action and decision of **the**~~said~~ body on **the**~~said~~
27 charges shall be reduced to writing and shall be entered in a book to be kept

1 for that purpose by the clerk of ~~the~~ legislative body, and the written
2 charges filed in this matter shall be preserved and securely attached to the
3 book containing the legislative body's decisions.

4 (2) (a) In cases where the mayor or chief has probable cause to believe that a member
5 of the police or fire department has been guilty of any conduct justifying
6 removal or punishment, he or she may suspend ~~the~~ member from duty,
7 or from both pay and duty, pending~~[-said]~~ trial, and ~~the~~ member shall
8 not be placed on duty or allowed pay thereafter until the charges are heard by
9 the legislative body.

10 (b) ~~The~~ body shall fix punishment against a member of the police or fire
11 departments found guilty of any charge under KRS 95.761 to 95.784, by
12 reprimand in writing or suspension for any length of time in their judgment,
13 not to exceed six (6) months, or by reducing the grade, if the accused be chief
14 or other officer, or by combining any two (2) or more of ~~the~~
15 punishments, or by removal or dismissal from the service of any such member
16 of the police or fire department.

17 (c) No member of the police or fire department except as provided in KRS 95.761
18 to 95.784 shall be reprimanded in writing, removed, suspended, or dismissed
19 from the department until written charges have been made, or preferred
20 against him, and a trial had as herein provided.

21 (3) ***This section shall only apply to a member of the police department when the***
22 ***provisions of KRS 15.520 do not apply.***

23 ➔Section 9. KRS 337.285 is amended to read as follows:

24 (1) No employer shall employ any of his employees for a work week longer than forty
25 (40) hours, unless such employee receives compensation for his employment in
26 excess of forty (40) hours in a work week at a rate of not less than one and one-half
27 (1-1/2) times the hourly wage rate at which he is employed.

- 1 (2) This provision shall not apply to the following:
- 2 (a) Employees of retail stores engaged in work connected with selling,
3 purchasing, and distributing merchandise, wares, goods, articles, or
4 commodities;
- 5 (b) Employees of restaurant, hotel, and motel operations;
- 6 (c) Employees as defined and exempted from the overtime provision of the Fair
7 Labor Standards Act in Sections 213(b)(1), 213(b)(6), 213(b)(10), and
8 213(b)(17) of Title 29, U.S.C.;
- 9 (d) Employees whose function is to provide twenty-four (24) hour residential care
10 on the employer's premises in a parental role to children who are primarily
11 dependent, neglected, and abused and who are in the care of private nonprofit
12 childcaring facilities licensed by the Cabinet for Health and Family Services
13 under KRS 199.640 to 199.670; or
- 14 (e) Any individual who is employed by a third-party employer or agency other
15 than the family or household using his or her services to provide in-home
16 companionship services for a sick, convalescing, or elderly person.
- 17 (3) As used in subsection (2) of this section, "companionship services" means those
18 services which provide in-home fellowship, care, and protection for a person who,
19 because of advanced age or physical or mental infirmity, cannot care for his or her
20 own needs. These services may include household work related to the care of the
21 aged or infirm person such as meal preparation, bed making, washing of clothes,
22 and other similar services. They may also include the performance of general
23 household work, provided that the household work is incidental, i.e., does not
24 exceed twenty percent (20%) of the total weekly hours worked. The term
25 "companionship services" does not include services relating to the care and
26 protection of the aged or infirm which require and are performed by trained
27 personnel, such as a registered or practical nurse.

1 (4) Notwithstanding the provisions of subsection (1) of this section or any other chapter
2 of the KRS to the contrary, upon written request by a county or city employee or a
3 Trooper R Class or CVE R Class, made freely and without coercion, pressure, or
4 suggestion by the employer, and upon a written agreement reached between the
5 employer and the county or city employee or the Trooper R Class or CVE R Class
6 before the performance of the work, a county or city employee or a Trooper R Class
7 or CVE R Class who is authorized to work one (1) or more hours in excess of the
8 prescribed hours per week may be granted compensatory leave on an hour-for-hour
9 basis. Upon the written request by a county or city employee or a Trooper R Class
10 or CVE R Class, made freely and without coercion, pressure, or suggestion by the
11 employer, and upon a written agreement reached between the employer and the
12 county or city employee or the Trooper R Class or CVE R Class, before the
13 performance of the work, a county or city employee or a Trooper R Class or CVE R
14 Class who is not exempt from the provisions of the Federal Fair Labor Standards
15 Act of 1938, as amended, 29 U.S.C. secs. 201 et seq., may be granted compensatory
16 time in lieu of overtime pay, at the rate of not less than one and one-half (1-1/2)
17 hours for each hour the county or city employee or the Trooper R Class or CVE R
18 Class is authorized to work in excess of forty (40) hours in a work week.

19 (5) (a) Upon the request of the county or city employee or the Trooper R Class or
20 CVE R Class, and as provided in subsection (4) of this section, compensatory
21 time shall be awarded as follows:

- 22 1. A county or city employee who provided work in excess of forty (40)
23 hours in a public safety activity, an emergency response activity, or a
24 seasonal activity as described in 29 C.F.R. sec. 553.24, may accrue not
25 more than four hundred eighty (480) hours of compensatory time; or
- 26 2. A county or city employee or a Trooper R Class or CVE R Class
27 engaged in other work in excess of forty (40) hours, may accrue not

1 more than two hundred forty (240) hours of compensatory time.

2 (b) A county or city employee or a Trooper R Class or CVE R Class who has
3 accrued four hundred eighty (480) hours of compensatory time off pursuant to
4 paragraph (a)1. of this subsection, or two hundred forty (240) hours of
5 compensatory time off pursuant to paragraph (a)2. of this subsection, shall for
6 additional overtime hours of work, be paid overtime compensation.

7 (6) A county or city employee or a Trooper R Class or CVE R Class who has accrued
8 compensatory time off as provided in subsection (4) of this section, and who
9 requested the use of compensatory time, shall be permitted by the employer to use
10 the compensatory time within a reasonable period after making the request if the use
11 of the compensatory time does not unduly disrupt the operations of the employer.
12 Mere inconvenience to the employer shall not constitute a sufficient basis for denial
13 of a county or city employee's request or a Trooper R Class or CVE R Class request
14 for compensatory time off.

15 (7) If compensation is paid to a county or city employee or a Trooper R Class or CVE R
16 Class for accrued compensatory time off, the compensation shall be paid at the
17 regular rate earned by the county or city employee or the Trooper R Class or CVE R
18 Class at the time the county or city employee or the Trooper R Class or CVE R
19 Class receives the payment.

20 (8) Upon a county or city employee's termination of employment or the termination of
21 employment of a Trooper R Class or CVE R Class, all unused accrued
22 compensatory time shall be paid at a rate of compensation not less than:

23 (a) The average regular rate received by the county or city employee or the
24 Trooper R Class or CVE R Class during the last three (3) years of the
25 employment of the county or city employee or Trooper R Class or CVE R
26 Class; or

27 (b) The final regular rate received by the county or city employee or Trooper R

1 Class or CVE R Class, whichever is higher.

2 (9) Compensatory time shall not be used as a means to avoid statutory overtime
3 compensation. A county or city employee or a Trooper R Class or CVE R Class
4 shall have the right to use compensatory time earned and shall not be coerced to
5 accept more compensatory time than an employer can realistically and in good faith
6 expect to be able to grant within a reasonable period upon the county or city
7 employee or the Trooper R Class or CVE R Class making the request for
8 compensatory time off.

9 (10) Nothing in subsections (4) to (9) of this section shall be construed to supersede any
10 collective bargaining agreement, memorandum of understanding, or any other
11 agreement between the employer and representative of the county or city employees
12 or the Trooper R Class or CVE R Class.

13 (11) As used in subsections (4) to (9) of this section:

14 (a) "County or city employee" means an employee of any county, city, charter
15 county, consolidated local government, unified local government, or urban-
16 county government, including an employee of a county or city elected official;

17 (b) "CVE R Class" has the same meaning as in KRS 16.010; and

18 (c) "Trooper R Class" has the same meaning as in KRS 16.010.

19 (12) In addition to the designation of a work week under subsection (1) of this section,
20 local governments, as defined in KRS 95A.210(5), may designate a work period for
21 professional firefighter employees as defined in KRS 95A.210. The designated
22 work period shall be not less than one (1) work week of seven (7) consecutive days
23 and not more than four (4) work weeks of twenty-eight (28) consecutive days for
24 purposes of complying with the requirements of the Federal Labor Standards Act of
25 1938, as amended, 29 U.S.C. secs. 201 et seq. This subsection shall not exempt
26 local governments from complying with the overtime requirements set forth in
27 subsection (1) of this section and is intended to:

- 1 (a) Clarify the option to designate both a work week for compliance with
 2 Kentucky law and a work period for compliance with the Fair Labor Standards
 3 Act of 1938, as amended, 29 U.S.C. secs. 201 et seq.; and
- 4 (b) Allow for the application of the partial exemption set forth in 29 U.S.C. sec.
 5 207(k) in determining overtime pay under the Fair Labor Standards Act of
 6 1938, as amended, 29 U.S.C. secs. 201 et seq., only.
- 7 (13) (a) A law enforcement department of a consolidated local government organized
 8 under KRS Chapter 67C or a city of the home rule class shall not be deemed
 9 to have violated subsection (1) of this section with respect to the employment
 10 of a peace officer if:
- 11 1. The officer works eighty (80) hours or less in a work period of fourteen
 12 (14) consecutive days; and
- 13 2. a. For a law enforcement department of a consolidated local
 14 government organized under KRS Chapter 67C, the law
 15 enforcement department and a representative of a collective
 16 bargaining unit certified under KRS 67C.408 that includes the
 17 officer agree to the exception; or
- 18 b. For a law enforcement department of a city of the home rule
 19 class, the law enforcement department and a representative of a
 20 collective bargaining unit recognized by the city to collectively
 21 bargain for the officer, if there is a collective bargaining unit,
 22 agree to the exception. If there is no collective bargaining unit
 23 representing the officer in a city of the home rule class, only the
 24 requirement in subparagraph 1. of this paragraph shall be met.
- 25 (b) It is the intent of this subsection to allow the employment of a peace officer
 26 for longer than forty (40) hours in any seven (7) consecutive days within a
 27 fourteen (14) day work period without incurring the obligation to pay a rate of

1 not less than one and one-half (1-1/2) times the officer's hourly wage under
2 subsection (1) of this section.