

1 AN ACT relating to 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) Agricultural Development Board.
- 3 (c) Kentucky Agricultural Finance Corporation.
- 4 (7) Auditor of Public Accounts.
- 5 II. Program cabinets headed by appointed officers:
- 6 (1) Justice and Public Safety Cabinet:
- 7 (a) Department of Kentucky State Police.
- 8 1. Office of Administrative Services.
- 9 a. Division of Operational Support.
- 10 b. Division of Management Services.
- 11 2. Office of Operations.
- 12 a. Division of West Troops.
- 13 b. Division of East Troops.
- 14 c. Division of Special Enforcement.
- 15 d. Division of Commercial Vehicle Enforcement.
- 16 3. Office of Technical Services.
- 17 a. Division of Forensic Sciences.
- 18 b. Division of Information Technology.
- 19 (b) Department of Criminal Justice Training.
- 20 (c) Department of Corrections.
- 21 (d) Department of Juvenile Justice.
- 22 (e) Office of the Secretary.
- 23 (f) Office of Drug Control Policy.
- 24 (g) Office of Legal Services.
- 25 (h) Office of the Kentucky State Medical Examiner.
- 26 (i) Parole Board.
- 27 (j) Kentucky State Corrections Commission.

- 1 (k) Office of Legislative and Intergovernmental Services.
- 2 (l) Office of Human Resource Management.
- 3 1. Division of Human Resource Administration.
- 4 2. Division of Employee Management.
- 5 (m) Department of Public Advocacy.
- 6 (n) Office of Communications.
- 7 1. Information Technology Services Division.
- 8 (o) Office of Financial Management Services.
- 9 1. Division of Financial Management.
- 10 (p) Grants Management Division.
- 11 (2) Education and Workforce Development Cabinet:
- 12 (a) Office of the Secretary.
- 13 1. Governor's Scholars Program.
- 14 2. Governor's School for Entrepreneurs Program.
- 15 3. Office of the Kentucky Workforce Innovation Board.
- 16 4. Foundation for Adult Education.
- 17 5. Early Childhood Advisory Council.
- 18 (b) Office of Legal and Legislative Services.
- 19 1. Client Assistance Program.
- 20 (c) Office of Communication.
- 21 (d) Office of Administrative Services.
- 22 1. Division of Human Resources.
- 23 2. Division of Operations and Support Services.
- 24 3. Division of Fiscal Management.
- 25 (e) Office of Technology Services.
- 26 (f) Office of Educational Programs.
- 27 (g) Office of the Kentucky Center for Statistics.

- 1 (h) Board of the Kentucky Center for Statistics.
- 2 (i) Board of Directors for the Center for School Safety.
- 3 (j) Department of Education.
- 4 1. Kentucky Board of Education.
- 5 2. Kentucky Technical Education Personnel Board.
- 6 3. Education Professional Standards Board.
- 7 (k) Department for Libraries and Archives.
- 8 (l) Department of Workforce Investment.
- 9 1. Office of Vocational Rehabilitation.
- 10 a. Division of Kentucky Business Enterprise.
- 11 b. Division of the Carl D. Perkins Vocational Training Center.
- 12 c. Division of Blind Services.
- 13 d. Division of Field Services.
- 14 e. Statewide Council for Vocational Rehabilitation.
- 15 2. Office of Unemployment Insurance.
- 16 3. Office of Employer and Apprenticeship Services.
- 17 a. Division of Apprenticeship.
- 18 4. Career Development Office.
- 19 5. Office of Adult Education.
- 20 6. Unemployment Insurance Commission.
- 21 7. Kentucky Apprenticeship Council.
- 22 8. Division of Technical Assistance.
- 23 (m) Foundation for Workforce Development.
- 24 (n) Kentucky Workforce Investment Board.
- 25 (o) Kentucky Commission on the Deaf and Hard of Hearing.
- 26 (p) Kentucky Educational Television.
- 27 (q) Kentucky Environmental Education Council.

- 1 (3) Energy and Environment Cabinet:
- 2 (a) Office of the Secretary.
- 3 1. Office of Legislative and Intergovernmental Affairs.
- 4 2. Office of Legal Services.
- 5 a. Legal Division I.
- 6 b. Legal Division II.
- 7 3. Office of Administrative Hearings.
- 8 4. Office of Communication.
- 9 5. Mine Safety Review Commission.
- 10 6. Office of Kentucky Nature Preserves.
- 11 7. 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 Mine Permits.
- 23 3. Division of Mine Reclamation and Enforcement.
- 24 4. Division of Abandoned Mine Lands.
- 25 5. Division of Oil and Gas.
- 26 6. Division of Mine Safety.
- 27 7. Division of Forestry.

- 1 8. Division of Conservation.
- 2 9. Office of the Reclamation Guaranty Fund.
- 3 (d) Office of Energy Policy.
- 4 1. Division of Energy Assistance.
- 5 (e) Office of Administrative Services.
- 6 1. Division of Human Resources Management.
- 7 2. Division of Financial Management.
- 8 3. Division of Information Services.
- 9 (4) Public Protection Cabinet.
- 10 (a) Office of the Secretary.
- 11 1. Office of Communications and Public Outreach.
- 12 2. Office of Legal Services.
- 13 a. Insurance Legal Division.
- 14 b. Charitable Gaming Legal Division.
- 15 c. Alcoholic Beverage Control Legal Division.
- 16 d. Housing, Buildings and Construction Legal Division.
- 17 e. Financial Institutions Legal Division.
- 18 f. Professional Licensing Legal Division.
- 19 3. Office of Administrative Hearings.
- 20 4. Office of Administrative Services.
- 21 a. Division of Human Resources.
- 22 b. Division of Fiscal Responsibility.
- 23 (b) Office of Claims and Appeals.
- 24 1. Board of Tax Appeals.
- 25 2. Board of Claims.
- 26 3. Crime Victims Compensation Board.
- 27 (c) Kentucky Boxing and Wrestling Commission.

- 1 (d) Kentucky Horse Racing Commission.
- 2 1. Office of Executive Director.
- 3 a. Division of Pari-mutuel Wagering and Compliance.
- 4 b. Division of Stewards.
- 5 c. Division of Licensing.
- 6 d. Division of Enforcement.
- 7 e. Division of Incentives and Development.
- 8 f. Division of Veterinary Services.
- 9 (e) Department of Alcoholic Beverage Control.
- 10 1. Division of Distilled Spirits.
- 11 2. Division of Malt Beverages.
- 12 3. Division of Enforcement.
- 13 (f) Department of Charitable Gaming.
- 14 1. Division of Licensing and Compliance.
- 15 2. Division of Enforcement.
- 16 (g) Department of Financial Institutions.
- 17 1. Division of Depository Institutions.
- 18 2. Division of Non-Depository Institutions.
- 19 3. Division of Securities.
- 20 (h) Department of Housing, Buildings and Construction.
- 21 1. Division of Fire Prevention.
- 22 2. Division of Plumbing.
- 23 3. Division of Heating, Ventilation, and Air Conditioning.
- 24 4. Division of Building Code Enforcement.
- 25 (i) Department of Insurance.
- 26 1. Division of Health and Life Insurance and Managed Care.
- 27 2. Division of Property and Casualty Insurance.

- 1 3. Division of Administrative Services.
- 2 4. Division of Financial Standards and Examination.
- 3 5. Division of Licensing.
- 4 6. Division of Insurance Fraud Investigation.
- 5 7. Division of Consumer Protection.
- 6 (j) Department of Professional Licensing.
- 7 1. Real Estate Authority.
- 8 (5) Labor Cabinet.
- 9 (a) Office of the Secretary.
- 10 1. Office of General Counsel.
- 11 a. Workplace Standards Legal Division.
- 12 b. Workers' Claims Legal Division.
- 13 2. Office of Administrative Services.
- 14 a. Division of Human Resources Management.
- 15 b. Division of Fiscal Management.
- 16 c. Division of Professional Development and Organizational
- 17 Management.
- 18 d. Division of Information Technology and Support Services.
- 19 3. Office of Inspector General.
- 20 (b) Department of Workplace Standards.
- 21 1. Division of Occupational Safety and Health Compliance.
- 22 2. Division of Occupational Safety and Health Education and
- 23 Training.
- 24 3. Division of Wages and Hours.
- 25 (c) Department of Workers' Claims.
- 26 1. Division of Workers' Compensation Funds.
- 27 2. Office of Administrative Law Judges.

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

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

- 1 1. Office of the Ombudsman and Administrative Review.
- 2 2. Office of Public Affairs.
- 3 3. Office of Legal Services.
- 4 4. Office of Inspector General.
- 5 5. Office of Human Resource Management.
- 6 6. Office of Finance and Budget.
- 7 7. Office of Legislative and Regulatory Affairs.
- 8 8. Office of Administrative Services.
- 9 9. Office of Application Technology Services.
- 10 (b) Department for Public Health.
- 11 (c) Department for Medicaid Services.
- 12 (d) Department for Behavioral Health, Developmental and Intellectual
- 13 Disabilities.
- 14 (e) Department for Aging and Independent Living.
- 15 (f) Department for Community Based Services.
- 16 (g) Department for Income Support.
- 17 (h) Department for Family Resource Centers and Volunteer Services.
- 18 (i) Office for Children with Special Health Care Needs.
- 19 (j) Office of Health Data and Analytics.
- 20 (9) Finance and Administration Cabinet:
- 21 (a) Office of the Secretary.
- 22 (b) Office of the Inspector General.
- 23 (c) Office of Legislative and Intergovernmental Affairs.
- 24 (d) Office of General Counsel.
- 25 (e) Office of the Controller.
- 26 (f) Office of Administrative Services.
- 27 (g) Office of Policy and Audit.

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

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

- 1 8. Division of Personnel Management and Staff Development.
- 2 9. Division of Sales.
- 3 10. Division of Security and Traffic Control.
- 4 11. Division of Information Technology.
- 5 12. Division of the Louisville Arena.
- 6 13. Division of Fiscal and Contract Management.
- 7 14. Division of Access Control.
- 8 (f) Office of the Secretary.
 - 9 1. Office of Finance.
 - 10 2. Office of Government Relations and Administration.
- 11 (g) Office of Legal Affairs.
- 12 (h) Office of Human Resources.
- 13 (i) Office of Public Affairs and Constituent Services.
- 14 (j) Office of Arts and Cultural Heritage.
- 15 (k) Kentucky African-American Heritage Commission.
- 16 (l) Kentucky Foundation for the Arts.
- 17 (m) Kentucky Humanities Council.
- 18 (n) Kentucky Heritage Council.
- 19 (o) Kentucky Arts Council.
- 20 (p) 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 (q) Kentucky Center for the Arts.
 - 26 1. Division of Governor's School for the Arts.
- 27 (r) Kentucky Artisans Center at Berea.

- 1 (s) Northern Kentucky Convention Center.
- 2 (t) 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 (1) 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

1 satisfy all requirements of the law, applicable to similar contracts of the community,
2 relating to the advertisement and acceptance of bids, execution of bonds, and award
3 of contracts.

4 **(2) The agency shall also attach to and make a part of the specifications for a**
5 **contract for the work, a schedule of prevailing wages, and shall comply with**
6 **Sections 7 to 17 of this Act.**

7 ➔Section 3. KRS 227.487 is amended to read as follows:

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

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

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

1 if any, and the amount for travel time, if any, and the amount charged for the
2 actual inspection.

3 (2) The maximum inspection fee shall be an amount equal to the prevailing wage paid
4 to ~~a majority of~~ master electricians in the region in which the inspection is made,
5 multiplied by the time required to conduct the inspection. This rate shall not be
6 applied to travel time to and from the inspection.

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

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

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

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

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

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

1 (2) The Labor Cabinet shall consist of the Office of the Secretary, the Department of
2 Workers' Claims, and the Department of Workplace Standards.

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

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

5 (b) State Labor Relations Board;

6 (c) Workers' Compensation Funding Commission;

7 (d) Occupational Safety and Health Standards Board;

8 (e) Employers' Mutual Insurance Authority;~~and~~

9 (f) Workers' Compensation Nominating Committee; **and**

10 **(g) Prevailing Wage Review Board.**

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

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

13 (a) "Commissioner" means the commissioner of the Department of Workplace
14 Standards under the direction and supervision of the secretary of the Labor
15 Cabinet;

16 (b) "Department" means the Department of Workplace Standards in the Labor
17 Cabinet;

18 (c) 1. "Wages" includes any compensation due to an employee by reason of his
19 or her employment, including salaries, commissions, vested vacation
20 pay, overtime pay, severance or dismissal pay, earned bonuses, and any
21 other similar advantages agreed upon by the employer and the employee
22 or provided to employees as an established policy. The wages shall be
23 payable in legal tender of the United States, checks on banks, direct
24 deposits, or payroll card accounts convertible into cash on demand at
25 full face value, subject to the allowances made in this chapter. However,
26 an employee may not be charged an activation fee and the payroll card
27 account shall provide the employee with the ability, without charge, to

1 make at least one (1) withdrawal per pay period for any amount up to
2 and including the full account balance.

3 2. For the purposes of calculating hourly wage rates for scheduled overtime
4 for professional firefighters, as defined in KRS 95A.210(8), "wages"
5 shall not include the distribution to qualified professional firefighters by
6 local governments of supplements received from the Firefighters
7 Foundation Program Fund. For the purposes of calculating hourly wage
8 rates for unscheduled overtime for professional firefighters, as defined in
9 KRS 95A.210(9), "wages" shall include the distribution to qualified
10 professional firefighters by local governments of supplements received
11 from the Firefighters Foundation Program Fund;

12 (d) "Employer" is any person, either individual, corporation, partnership, agency,
13 or firm who employs an employee and includes any person, either individual,
14 corporation, partnership, agency, or firm acting directly or indirectly in the
15 interest of an employer in relation to an employee; and

16 (e) "Employee" is any person employed by or suffered or permitted to work for an
17 employer, except that:

18 1. Notwithstanding any voluntary agreement entered into between the
19 United States Department of Labor and a franchisee, neither a franchisee
20 nor a franchisee's employee shall be deemed to be an employee of the
21 franchisor for any purpose under this chapter; and

22 2. Notwithstanding any voluntary agreement entered into between the
23 United States Department of Labor and a franchisor, neither a franchisor
24 nor a franchisor's employee shall be deemed to be an employee of the
25 franchisee for any purpose under this chapter.

26 For purposes of this paragraph, "franchisee" and "franchisor" have the same
27 meanings as in 16 C.F.R. sec. 436.1.

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

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

5 1. Any individual employed in agriculture;

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

10 3. Any individual employed by the United States;

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

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

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

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

- 1 her employer's immediate family;
- 2 7. Any individual employed as a baby-sitter in an employer's home, or an
3 individual employed as a companion by a sick, convalescing, or elderly
4 person or by the person's immediate family, to care for that sick,
5 convalescing, or elderly person and whose principal duties do not
6 include housekeeping;
- 7 8. Any individual engaged in the delivery of newspapers to the consumer;
- 8 9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A,
9 30A, and 18A provided that the secretary of the Personnel Cabinet shall
10 have the authority to prescribe by administrative regulation those
11 emergency employees, or others, who shall receive overtime pay rates
12 necessary for the efficient operation of government and the protection of
13 affected employees;
- 14 10. Any employee employed by an establishment which is an organized
15 nonprofit camp, religious, or nonprofit educational conference center, if
16 it does not operate for more than two hundred ten (210) days in any
17 calendar year;
- 18 11. Any employee whose function is to provide twenty-four (24) hour
19 residential care on the employer's premises in a parental role to children
20 who are primarily dependent, neglected, and abused and who are in the
21 care of private, nonprofit childcaring facilities licensed by the Cabinet
22 for Health and Family Services under KRS 199.640 to 199.670;
- 23 12. Any individual whose function is to provide twenty-four (24) hour
24 residential care in his or her own home as a family caregiver, family
25 home provider, or adult foster care provider and who is approved to
26 provide family caregiver services to an adult with a disability through a
27 contractual relationship with a community board for mental health or

- 1 individuals with an intellectual disability established under KRS
2 210.370 to 210.460 or through a contractual relationship with a certified
3 waiver provider as defined in 907 KAR 7:005 sec. 1(5), or is certified or
4 licensed by the Cabinet for Health and Family Services to provide adult
5 foster care;
- 6 13. A direct seller as defined in Section 3508(b)(2) of the Internal Revenue
7 Code of 1986; or
- 8 14. Any individual whose function is to provide behavior support services,
9 behavior programming services, case management services, community
10 living support services, positive behavior support services, or respite
11 services through a contractual relationship with a certified waiver
12 provider, as defined in 907 KAR 7:005 sec. 1(5), pursuant to a 1915(c)
13 home and community based services waiver program, as defined in 907
14 KAR 7:005 sec. 1(2);
- 15 (b) "Agriculture" means farming in all its branches, including cultivation and
16 tillage of the soil; dairying; production, cultivation, growing, and harvesting of
17 any agricultural or horticultural commodity; raising of livestock, bees,
18 furbearing animals, or poultry; and any practice, including any forestry or
19 lumbering operations, performed on a farm in conjunction with farming
20 operations, including preparation and delivery of produce to storage, to
21 market, or to carriers for transportation to market;
- 22 (c) "Gratuity" means voluntary monetary contribution received by an employee
23 from a guest, patron, or customer for services rendered;
- 24 (d) "Tipped employee" means any employee engaged in an occupation in which
25 he or she customarily and regularly receives more than thirty dollars (\$30) per
26 month in tips; and
- 27 (e) "U.S.C." means the United States Code.

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

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

8 (b) "Contractor" and "subcontractor" include any employee or authorized
9 agent of any contractor or subcontractor who is in charge of the
10 construction of the public works or who is in charge of the employment or
11 payment of the employees;

12 (c) 1. "Locality" shall be determined by the commissioner. The
13 commissioner may designate more than one (1) county as a single
14 locality, but if more than one (1) county is designated, the multicounty
15 locality shall not extend beyond the boundaries of a state Senatorial
16 district. The commissioner shall not designate less than an entire
17 county as a locality. If enough competent employees are not available
18 in the locality, "locality" shall include the locality nearest to the one
19 in which the construction work is to be performed and in which
20 enough competent employees may be found.

21 2. "Locality" with respect to contracts advertised or awarded by the
22 Transportation Cabinet of this state shall be determined by the
23 secretary of the Transportation Cabinet. The secretary may designate
24 any number of counties as constituting a single locality. The secretary
25 may also designate all counties of the Commonwealth as a single
26 locality, but shall not designate less than an entire county as a
27 locality;

1 (d) "Public authority" means any:

2 1. Officer, board, commission, political subdivision, or department of
 3 this state, or any institution supported in whole or in part by public
 4 funds, including publicly owned or controlled corporations,
 5 authorized by law to enter into any contract for the construction of
 6 public works;

7 2. Nonprofit corporation funded to act as an agency and instrumentality
 8 of the government agency in connection with the construction of
 9 public works; or

10 3. Private provider, as defined in KRS 197.500, which enters into any
 11 contract for the construction of an adult correctional facility, as
 12 defined in KRS 197.500; and

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

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

18 The following civil penalties shall be imposed, in accordance with the provisions in KRS
 19 336.985, for violations of the provisions of this chapter:

20 (1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be
 21 assessed a civil penalty of not less than one hundred dollars (\$100) nor more than
 22 one thousand dollars (\$1,000) for each offense. Each failure to pay an employee the
 23 wages when due him under KRS 337.020 shall constitute a separate offense.

24 (2) Any employer who violates KRS 337.050 shall be assessed a civil penalty of not
 25 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

26 (3) Any employer who violates KRS 337.055 shall be assessed a civil penalty of not
 27 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)

1 for each offense and shall make full payment to the employee by reason of the
2 violation. Each failure to pay an employee the wages as required by KRS 337.055
3 shall constitute a separate offense.

4 (4) Any employer who violates KRS 337.060 shall be assessed a civil penalty of not
5 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)
6 and shall also be liable to the affected employee for the amount withheld, plus
7 interest at the rate of ten percent (10%) per annum.

8 (5) Any employer who violates the provisions of KRS 337.065 shall be assessed a civil
9 penalty of not less than one hundred dollars (\$100) nor more than one thousand
10 dollars (\$1,000) for each offense and shall make full payment to the employee by
11 reason of the violation.

12 (6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty
13 of not less than one hundred dollars (\$100) nor more than one thousand dollars
14 (\$1,000) for each offense and each day that the failure continues shall be deemed a
15 separate offense.

16 (7) Any employer who violates any provision of KRS 337.275 to 337.325, KRS
17 337.345, and KRS 337.385 to 337.405, or willfully hinders or delays the
18 commissioner or the commissioner's authorized representative in the performance
19 of his or her duties under KRS 337.295, or fails to keep and preserve any records as
20 required under KRS 337.320 and 337.325, or falsifies any record, or refuses to
21 make any record or transcription thereof accessible to the commissioner or the
22 commissioner's authorized representative shall be assessed a civil penalty of not less
23 than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000). A
24 civil penalty of not less than one thousand dollars (\$1,000) shall be assessed for any
25 subsequent violation of KRS 337.285(4) to (9) and each day the employer violates
26 KRS 337.285(4) to (9) shall constitute a separate offense and penalty.

27 (8) Any employer who pays or agrees to pay wages at a rate less than the rate applicable

1 under KRS 337.275 and 337.285, or any wage order issued pursuant thereto shall be
2 assessed a civil penalty of not less than one hundred dollars (\$100) nor more than
3 one thousand dollars (\$1,000).

4 (9) Any employer who discharges or in any other manner discriminates against any
5 employee because the employee has made any complaint to his or her employer, to
6 the commissioner, or to the commissioner's authorized representative that he or she
7 has not been paid wages in accordance with KRS 337.275 and 337.285 or
8 regulations issued thereunder, or because the employee has caused to be instituted
9 or is about to cause to be instituted any proceeding under or related to KRS
10 337.385, or because the employee has testified or is about to testify in any such
11 proceeding, shall be deemed in violation of KRS 337.275 to 337.325, KRS 337.345,
12 and KRS 337.385 to 337.405 and shall be assessed a civil penalty of not less than
13 one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

14 (10) Any employer who violates KRS 337.365 shall be assessed a civil penalty of not
15 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

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

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

21 (b) Instituted, or caused to be instituted, any proceeding under or related to KRS
22 337.420 to 337.433; or

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

24 **(12) Any person who violates Section 14 of this Act shall be assessed a civil penalty of**
25 **not less than one hundred dollars (\$100) nor more than one thousand dollars**
26 **(\$1,000).**

27 **(13) (a) Any contractor or subcontractor who violates any wage or work hours**

1 provision in any contract under Sections 7 to 17 of this Act shall be assessed
2 a civil penalty of not less than one hundred dollars (\$100) nor more than
3 one thousand dollars (\$1,000) for each offense, and the contractor or
4 subcontractor shall make full restitution to all employees to whom the
5 contractor is legally indebted.

6 (b) The prime contractor shall be jointly and severally liable with a
7 subcontractor for wages due an employee of the subcontractor. For a
8 flagrant or repeated violation, the offending contractor or subcontractor
9 shall be barred from bidding, or working on any public works contracts,
10 either in the contractor's name or in the name of any other company, firm,
11 or other entity in which he or she might be interested, for a period of two (2)
12 years from the date of the last offense. Each day of violation shall constitute
13 a separate offense.

14 (14) Any public authority, public official, or member of a public authority who
15 willfully fails to comply or to require compliance with Sections 7 to 17 of this Act
16 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor
17 more than one thousand dollars (\$1,000) for each offense. Each day of violation
18 shall constitute a separate offense. If a public authority, public official, or
19 member of a public authority willfully or negligently fails to comply with Sections
20 7 to 17 of this Act and the failure results in damages, injury, or loss to any
21 person, the public authority, public official, or member of a public authority may
22 be held liable in a civil action.

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

25 For the purpose of Sections 7 to 17 of this Act, the term "prevailing wage" for each
26 classification of employees engaged in the construction of public works within the
27 Commonwealth of Kentucky, means the sum of:

- 1 (1) The basic hourly rate paid or being paid subsequent to the commissioner's most
2 recent wage determination to the majority of employees in each classification of
3 construction upon reasonably comparable construction in the locality where the
4 work is to be performed. This rate shall be determined by the commissioner in
5 accordance with subsection (3) of Section 10 of this Act. If there is not a majority
6 paid at the same rate, then the basic hourly rate of pay shall be the average basic
7 hourly rate which shall be determined by adding the basic hourly rates paid to all
8 workers in the classification and dividing by the total number of these workers;
9 and
- 10 (2) An additional amount per hour equal to the hourly rate of contribution
11 irrevocably made or to be made by an employer on behalf of employees within
12 each classification of construction to a trustee or to a third person pursuant to an
13 enforceable commitment to carry out a financially responsible plan or program.
14 This commitment shall be communicated in writing to the employees affected, for
15 the following fringe benefits: medical or hospital care, pensions on retirement,
16 death compensation for injuries or illness resulting from occupational activity or
17 insurance to provide any of these, unemployment benefits, life insurance,
18 disability and sickness insurance, accident insurance, vacation and holiday pay,
19 defraying costs of apprenticeship or other similar programs, or other bona fide
20 fringe benefits, but only where the employer is not required by other federal, state
21 or local law to provide any of these benefits. This additional amount may, at the
22 discretion of the employer, be paid either in cash to the employee or by
23 contributions for fringe benefits, or partly in cash and partly by these
24 contributions. It is the intention of this subsection to recognize fringe benefits as
25 a part of the prevailing wage rate where made in accordance with this subsection.

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

1 (1) Before advertising for bids or entering into any contract for construction of
2 public works, every public authority shall notify the department in writing of the
3 specific public work to be constructed, and shall ascertain from the department
4 the prevailing rates of wages for each classification of employees for the class of
5 work required in the locality where the work is to be performed. This schedule of
6 the prevailing rate of wages shall include a statement that the rate has been
7 determined in accordance with Sections 7 to 17 of this Act. The schedule shall be
8 attached to and made part of the specifications for the work, shall be printed on
9 the bidding blanks, and made a part of every contract for the construction of
10 public works.

11 (2) The public authority advertising and awarding the contract shall cause to be
12 inserted in the proposal and contract a stipulation that not less than the
13 prevailing hourly rate of wages as determined by the commissioner shall be paid
14 to all employees performing work under the contract. It shall also require in all
15 the contractor's bonds that the contractor include provisions that will guarantee
16 the faithful performance of the prevailing hourly wage clause as provided by
17 contract. The public authority awarding the contract, and its agents and officers,
18 shall take notice of all complaints of violations of Sections 7 to 17 of this Act
19 committed in the course of the execution of the contract, and when making
20 payments to the contractor becoming due under the contract, to withhold and
21 retain amounts due and owing as a result of any violation thereof. A contractor
22 may withhold from any subcontractor sufficient sums to cover any penalties
23 withheld from the contractor by the awarding authority, because of the
24 subcontractor's failure to comply with the terms thereof and, if payment has
25 already been made to the subcontractor, the contractor may recover from him or
26 her the amount of the penalty in a suit at law.

27 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO

1 READ AS FOLLOWS:

2 (1) A public official authorized to contract for or construct public works shall
3 ascertain from the commissioner the prevailing rates of wages under Sections 7
4 to 17 of this Act before advertising for bids or undertaking construction.

5 (2) No member of a public authority authorized to contract for or construct public
6 works shall vote for the award of any contract for the construction of the public
7 works, or vote for the disbursement of any funds, unless the public authority has
8 first ascertained from the commissioner the prevailing rates of wages of
9 employees for each class of work required in the locality where the work is to be
10 performed. The determination of prevailing wages shall be made a part of the
11 proposal specifications and contract for the public works.

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

14 (1) The commissioner shall make initial determinations and current revisions of
15 schedules of rates of prevailing wages, of the amount of fringe benefits included
16 as described in Section 7 of this Act, and the number of hours applicable. The
17 commissioner may promulgate administrative regulations to implement Sections
18 7 to 17 of this Act. The administrative regulations shall not require each
19 contractor and subcontractor furnish a sworn affidavit with respect to the wages
20 paid each employee.

21 (2) The commissioner shall require the filing of all wage contracts of all employees
22 in this state which have been agreed to between organizations of labor and an
23 employer or associations of employers. The contracts shall be filed within ten (10)
24 days after they are signed.

25 (3) The commissioner may determine schedules and current revisions of the rates of
26 prevailing wages as defined in Section 7 of this Act, but shall not determine
27 wages to be paid for a legal day's work to employees engaged in the construction

1 of public works at less than the prevailing wages paid in the localities. The
2 commissioner, in determining what rates of wages prevail, shall consider the
3 following criteria:

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

11 (b) Wage rates previously paid on reasonably comparable private construction
12 projects constructed in the localities. In considering the rates the
13 commissioner shall ascertain, insofar as practicable, the names and
14 addresses of the contractors, including subcontractors, the locations,
15 approximate costs, dates of construction and types of projects, the number
16 of workers employed on each project, and the respective wage rates paid
17 each worker who was engaged in the construction of these projects; and

18 (c) Collective bargaining agreements or understandings between organizations
19 of labor and their employers located in the Commonwealth and which
20 agreements apply or pertain to the localities in which the public works are
21 to be constructed.

22 (4) The wage rates to be used by the public authority in a contract for the
23 construction of public works shall be the prevailing wage as of the date the public
24 works project is advertised and offered for bid. If contracts are not awarded
25 within ninety (90) days after the date of offering for bid, the public authority shall
26 ascertain the prevailing rate of wages from the department before the contract is
27 awarded. The schedule or scale of prevailing wages shall be incorporated in and

1 made a part of each contract.

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

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

7 (1) If the federal government or any of its agencies furnishes by loans or grants any
8 part of the funds used in constructing public works, and if the federal
9 government or its agencies prescribe predetermined prevailing minimum wages
10 to be paid to employees employed in the construction of the public works, and if
11 Sections 7 to 17 of this Act is also applicable, those wages in each classification
12 which are higher shall prevail.

13 (2) The commissioner or the commissioner's authorized representative shall conduct
14 a public hearing for the purpose of making initial determinations or current
15 revisions of a prevailing wage schedule for the construction of public works
16 pertaining to a locality. The commissioner shall, within sixty (60) days of the
17 hearing, publish his or her wage determination. The hearing shall be conducted
18 in the locality after notice has been given as provided in subsection (4) of this
19 section. The commissioner shall not be required to utilize this section in any
20 locality where the United States Department of Labor has issued a prevailing
21 wage under the Davis-Bacon or related acts, in which case, the commissioner
22 may adopt the wage schedule and any modifications issued by the United States
23 Department of Labor and published in the Federal Register.

24 (3) (a) A public authority or any interested person may request and shall be
25 granted an additional hearing solely for the purpose of considering a review
26 of the commissioner's determination of the prevailing wage schedule for the
27 construction of public works in the locality. After notice has been given as

1 provided in subsection (4) of this section, the hearing shall be conducted in
2 the locality by a prevailing wage review board consisting of one (1) member
3 representing employers in the construction industry, one (1) member
4 representing labor in the construction industry, and one (1) member
5 appointed by the public authority requesting the hearing.

6 (b) The member appointed by the public authority shall reside in the locality in
7 which the public works are to be constructed. The members of the board
8 representing employers in the construction industry and labor in the
9 construction industry shall be appointed for periods of not more than four
10 (4) years by the Governor from a list of prospective members recommended
11 by associations representing the construction industry and labor
12 organizations representing workers employed in the construction industry,
13 and the members shall serve on the board for all hearings during their
14 tenure.

15 (c) Prevailing wage review boards may revise prevailing wage schedules for the
16 construction of public works, but the revisions shall be governed by the
17 same criteria and regulations governing wage determinations of the
18 commissioner. A revision of a prevailing wage schedule for the construction
19 of public works shall require a vote of a majority of the members. The
20 members of a prevailing wage review board shall receive their actual
21 necessary expenses incurred in carrying out their duties and the expenses
22 shall be paid out of the general fund of the Commonwealth.

23 (4) Notice of hearings as required in subsections (2) and (3) of this section shall be
24 given by advertising one (1) time in the newspaper having the largest circulation
25 in the locality, and the advertisement shall be run not fewer than ten (10) nor
26 more than twenty (20) days prior to the date of the hearing. The advertisement
27 shall set forth all pertinent information of the hearing regarding the time, place,

1 and purpose of the hearing.

2 (5) The prevailing wage review boards shall be attached to the Labor Cabinet for
3 administrative purposes.

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

6 (1) If a review of the commissioner's determination is requested pursuant to
7 subsection (3) of Section 11 of this Act, the wage rates to be used by the public
8 authority in a contract for the construction of public works advertised during the
9 pendency of the proceedings provided in subsection (2) of Section 11 of this Act,
10 or on appeal pursuant to Section 13 of this Act, shall be the latest rate determined
11 by the commissioner and which is being reviewed.

12 (2) The public authority shall state in its advertisement, bid documents, and
13 contracts, that the prevailing wage rates contained in these documents are
14 presently being reviewed, are subject to change, and if modified or altered, that
15 the contractors shall be responsible for the payment of the wage rates finally
16 determined. If any rates are increased from those determined by the
17 commissioner, the contractor may recover from the public authority any
18 additional sums of money which the contractor may be required to pay as a result
19 of the wage modification or alteration. If any rates are decreased from that
20 determined by the commissioner, the public authority shall be barred from any
21 recovery of the difference previously earned by or paid to employees.

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

24 (1) Any person claiming to be aggrieved by any final determination of prevailing
25 wages by the prevailing wage review board may appeal to the Franklin Circuit
26 Court. The appeal shall state fully the grounds upon which an appeal is sought.
27 A copy of the appeal and summons shall be served upon the Department of

1 Workplace Standards and the members of the prevailing wage review board.
 2 Within thirty (30) days after the service, or within further time if allowed by the
 3 court, the department, on behalf of the prevailing wage review board, shall
 4 submit to the court a certified copy of all matters considered by the prevailing
 5 wage review board from which it made its final wage determination.

6 (2) No new or additional evidence may be introduced in the Franklin Circuit Court,
 7 except as to the fraud or misconduct of any person engaged in the administration
 8 of this chapter and affecting the order, ruling, or award. The court shall
 9 otherwise hear the appeal upon the record as certified by the Department of
 10 Workplace Standards. The court shall not substitute its judgment for that of the
 11 prevailing wage review board, the court's review being limited to determining
 12 whether or not:

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

14 (b) The prevailing wage review board's final wage determination was procured
 15 by fraud;

16 (c) The determination is not in conformity with this chapter;

17 (d) The determination is clearly erroneous on the basis of the information
 18 contained in the record; or

19 (e) The final wage determination is arbitrary or capricious.

20 (3) The Franklin Circuit Court shall enter an order affirming or setting aside the
 21 prevailing wage review board's wage determination. The court may also remand
 22 the case to the prevailing wage review board for further proceedings.

23 (4) An appeal may be taken to the Court of Appeals from any decision of the
 24 Franklin Circuit Court under this section.

25 ➔SECTION 14. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO
 26 READ AS FOLLOWS:

27 (1) Where a prevailing rate of wages has been determined and prescribed, the

1 contract executed between a public authority and the successful bidder or
2 contractor shall require the successful bidder and all of his or her subcontractors
3 to pay not less than the rate of wages established. The successful bidder or
4 contractor and all subcontractors shall strictly comply with these provisions of
5 the contract.

6 (2) (a) All contractors and subcontractors required by Sections 7 to 17 of this Act
7 and by contracts with any public authority to pay not less than the
8 prevailing rate of wages, shall pay these wages in legal tender without any
9 deductions. These provisions shall not apply where the employer and
10 employee enter into an agreement in writing at the beginning of or during
11 any term of employment covering deductions for food, sleeping
12 accommodations or any similar item, if this agreement is submitted by the
13 employer to the department and is approved by the department as fair and
14 reasonable.

15 (b) All contractors and subcontractors affected by Sections 7 to 17 of this Act
16 shall keep full and accurate payroll records covering all disbursements of
17 wages to their employees to whom they are required to pay not less than the
18 prevailing rate of wages. These records shall indicate the hours worked
19 each day by each employee in each classification of work and the amount
20 paid each employee for his or her work in each classification. They shall be
21 open to the inspection and transcript of the commissioner or the
22 commissioner's authorized representative at any reasonable time, and shall
23 be in compliance with all administrative regulations issued by the
24 commissioner. These payroll records shall not be destroyed or removed
25 from this state for one (1) year following the completion of the improvement
26 in connection with which they are made.

27 (3) Each contractor and subcontractor subject to Sections 7 to 17 of this Act shall

1 keep posted in a conspicuous place or places at the site of the construction work a
2 copy or copies of prevailing rates of wages and working hours as prescribed in
3 the contract with the public authority, showing the rates of wages prescribed and
4 the working hours for each class of employees employed by him or her in
5 constructing the public works provided for in the contract with the public
6 authority.

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

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

13 (1) Every public authority, before advertising for bids, shall include with the
14 schedule of wages a provision that no employee shall be permitted to work more
15 than eight (8) hours in one (1) calendar day, which shall constitute a legal day's
16 work, nor more than forty (40) hours in one (1) week, which shall constitute a
17 legal workweek, except in cases of emergency caused by fire, flood, or damage to
18 life or property. This limitation of work hours shall be made a part of the
19 specifications for the work and printed on bid blanks where the work is done by
20 contract and shall be incorporated as a part of each contract. This shall not
21 prohibit any employee from working more than eight (8) hours in one (1)
22 calendar day, but not more than ten (10) hours in one (1) calendar day where the
23 employee and employer enter into an agreement in writing prior to the working of
24 any one (1) day in excess of eight (8) hours, or where provided for in a collective
25 bargaining agreement.

26 (2) No employee shall be permitted to work more than eight (8) hours in any one (1)
27 calendar day, nor more than forty (40) hours in any one (1) week, except in cases

1 of emergency caused by fire, flood, or damage to life or property, on the
2 construction of public works which are being constructed under contract with
3 any public authority. This shall not prohibit any employee from working more
4 than eight (8) hours in one (1) calendar day, but not more than ten (10) hours in
5 one (1) calendar day where the employee and employer enter into an agreement
6 in writing prior to the working of any one (1) day in excess of eight (8) hours, or
7 where provided for in a collective bargaining agreement.

8 (3) Any employee who works in excess of eight (8) hours per day or forty (40) hours
9 per week, except in cases of emergency, shall be paid not less than one and one-
10 half (1-1/2) times the basic hourly rate of pay as defined and fixed under this
11 chapter for all overtime worked, and each contract with any public authority for
12 the construction of public works shall provide this. In any case where an
13 employee works in excess of eight (8) hours per day, but not more than ten (10)
14 hours per day in accordance with subsection (2) of this section, it will not be a
15 violation of this subsection if the employee who works in excess of ten (10) hours
16 in any one (1) calendar day is paid not less than one and one-half (1-1/2) times
17 the basic hourly rate of pay.

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

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

22 (1) If it is found that a public authority has not complied with Sections 7 to 17 of this
23 Act, the commissioner shall give notice of this noncompliance in writing to the
24 public authority. The commissioner may allow sufficient time for compliance.
25 After the expiration of the time prescribed in the notice, the department shall, at
26 the earliest possible time, bring suit in the Circuit Court of the county in which
27 the public body is located to enjoin the award of the contract for a public works

1 or to enjoin any further work or payments under a contract that has been
2 awarded until the requirements of the notice are complied with. The court may
3 issue a temporary restraining order without notice to the defendant in the action.

4 (2) Upon final hearing, if the court is satisfied that the requirements of the notice by
5 the department to the defendant were not unreasonable or arbitrary, it shall issue
6 an order enjoining the defendant from awarding a contract for a public works or
7 to enjoin any further work or payments under a contract that has been awarded
8 until the notice is complied with. This injunction shall continue until the court is
9 satisfied that the requirements of the notice have been complied with. Both the
10 plaintiff and the defendant in the action shall have the same rights of appeal as
11 are provided by law in other injunction actions.

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

14 (1) Any employee employed on public works may file a complaint of any violation of
15 Sections 7 to 17 of this Act with the department. The department shall assist the
16 employee in the collection of claims of wages due him or her and shall also assist
17 to the fullest extent in the administration and enforcement of Sections 7 to 17 of
18 this Act. The commissioner shall investigate and enforce Sections 7 to 17 of this
19 Act to the fullest and shall bring all actions to collect wages due any employee
20 and shall take action against any contractor or subcontractor to restrain
21 violations of Sections 7 to 17 of this Act. If any contractor or subcontractor is
22 found to be in violation of Sections 7 to 17 of this Act, then the commissioner
23 shall inform the secretary of finance and administration, and the secretary shall
24 hold the contractor or subcontractor ineligible to bid on public works until the
25 time as that contractor or subcontractor is in substantial compliance as
26 determined by the commissioner.

27 (2) An employee may by civil action recover any sum due him or her as the result of

1 the failure of the employee's employer to comply with the terms of Sections 7 to
2 17 of this Act. The commissioner may also bring any legal action necessary to
3 collect claims on behalf of any or all employees. No employer shall take any
4 punitive measure or action against an employee because the employee has made
5 a charge, testified, assisted, or participated in any manner in an investigation,
6 proceeding, or hearing under Sections 7 to 17 of this Act. The commissioner shall
7 not be required to pay the filing fee, or other costs, in connection with such an
8 action.