

1 AN ACT relating to wage transparency.

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

3 ➔Section 1. KRS 337.010 is amended to read as follows:

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

5 (a) "Commissioner" means the commissioner of the Department of Workplace
6 Standards under the direction and supervision of the secretary of the Labor
7 Cabinet;

8 (b) "Department" means the Department of Workplace Standards in the Labor
9 Cabinet;

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

22 ~~2. For the purposes of calculating hourly wage rates for scheduled overtime
23 for professional firefighters, as defined in KRS 95A.210(8), "wages"
24 shall not include the distribution to qualified professional firefighters by
25 local governments of supplements received from the Firefighters
26 Foundation Program Fund. For the purposes of calculating hourly wage
27 rates for unscheduled overtime for professional firefighters, as defined in~~

1 ~~KRS 95A.210(9), "wages" shall include the distribution to qualified~~
 2 ~~professional firefighters by local governments of supplements received~~
 3 ~~from the Firefighters Foundation Program Fund.;~~

4 ~~(c)~~~~(d)~~ "Employer" is any person, either individual, corporation, partnership,
 5 agency, or firm who employs an employee and includes any person, either
 6 individual, corporation, partnership, agency, or firm acting directly or
 7 indirectly in the interest of an employer in relation to an employee;~~and~~

8 ~~(d)~~~~(e)~~ "Employee" is any person employed by or suffered or permitted to work
 9 for an employer, except that:

- 10 1. Notwithstanding any voluntary agreement entered into between the
 11 United States Department of Labor and a franchisee, neither a franchisee
 12 nor a franchisee's employee shall be deemed to be an employee of the
 13 franchisor for any purpose under this chapter; and
- 14 2. Notwithstanding any voluntary agreement entered into between the
 15 United States Department of Labor and a franchisor, neither a franchisor
 16 nor a franchisor's employee shall be deemed to be an employee of the
 17 franchisee for any purpose under this chapter.

18 For purposes of this paragraph, "franchisee" and "franchisor" have the same
 19 meanings as in 16 C.F.R. sec. 436.1;~~and~~

20 ~~(e)~~ **"Job posting" means an advertisement for employment, whether printed or**
 21 **electronic, made by an employer for the purpose of attracting applications**
 22 **for employment from potential employees and that describes the position the**
 23 **employer seeks to fill;**

24 ~~(f)~~ **1. "Wages" includes any compensation due to an employee by reason of**
 25 **his or her employment, including salaries, commissions, vested**
 26 **vacation pay, overtime pay, severance or dismissal pay, earned**
 27 **bonuses, and any other similar advantages agreed upon by the**

1 employer and the employee or provided to employees as an established
2 policy. The wages shall be payable in legal tender of the United States,
3 checks on banks, direct deposits, or payroll card accounts convertible
4 into cash on demand at full face value, subject to the allowances made
5 in this chapter. However, an employee may not be charged an
6 activation fee and the payroll card account shall provide the employee
7 with the ability, without charge, to make at least one (1) withdrawal
8 per pay period for any amount up to and including the full account
9 balance.

10 2. For the purposes of calculating hourly wage rates for scheduled
11 overtime for professional firefighters, as defined in KRS 95A.210(8),
12 "wages" shall not include the distribution to qualified professional
13 firefighters by local governments of supplements received from the
14 Firefighters Foundation Program Fund. For the purposes of
15 calculating hourly wage rates for unscheduled overtime for
16 professional firefighters, as defined in KRS 95A.210(9), "wages" shall
17 include the distribution to qualified professional firefighters by local
18 governments of supplements received from the Firefighters
19 Foundation Program Fund; and

20 (g) "Wage range" means the range of wages an employer anticipates relying
21 on when setting wages for a position, and may include reference to any
22 applicable pay scale, previously determined range of wages for the position,
23 actual range of wages for those employees currently holding comparable
24 positions, or the employer's budgeted amount for that position.

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

27 (a) "Agriculture" means farming in all its branches, including cultivation and

1 tillage of the soil; dairying; production, cultivation, growing, and harvesting
 2 of any agricultural or horticultural commodity; raising of livestock, bees,
 3 furbearing animals, or poultry; and any practice, including any forestry or
 4 lumbering operations, performed on a farm in conjunction with farming
 5 operations, including preparation and delivery of produce to storage, to
 6 market, or to carriers for transportation to market;

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

- 9 1. Any individual employed in agriculture;
- 10 2. Any individual employed in a bona fide executive, administrative,
 11 supervisory, or professional capacity, or in the capacity of outside
 12 salesman, or as an outside collector as the terms are defined by
 13 administrative regulations of the commissioner;
- 14 3. Any individual employed by the United States;
- 15 4. Any individual employed in domestic service in or about a private home.

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

- 19 5. Any individual classified and given a certificate by the commissioner
 20 showing a status of learner, apprentice, worker with a disability,
 21 sheltered workshop employee, and student under administrative
 22 procedures and administrative regulations prescribed and promulgated
 23 by the commissioner. This certificate shall authorize employment at the
 24 wages, less than the established fixed minimum fair wage rates, and for
 25 the period of time fixed by the commissioner and stated in the certificate
 26 issued to the person;
- 27 6. Employees of retail stores, service industries, hotels, motels, and

- 1 restaurant operations whose average annual gross volume of sales made
2 for business done is less than ninety-five thousand dollars (\$95,000) for
3 the five (5) preceding years exclusive of excise taxes at the retail level or
4 if the employee is the parent, spouse, child, or other member of his or
5 her employer's immediate family;
- 6 7. Any individual employed as a baby-sitter in an employer's home, or an
7 individual employed as a companion by a sick, convalescing, or elderly
8 person or by the person's immediate family, to care for that sick,
9 convalescing, or elderly person and whose principal duties do not
10 include housekeeping;
- 11 8. Any individual engaged in the delivery of newspapers to the consumer;
- 12 9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A,
13 30A, and 18A provided that the secretary of the Personnel Cabinet shall
14 have the authority to prescribe by administrative regulation those
15 emergency employees, or others, who shall receive overtime pay rates
16 necessary for the efficient operation of government and the protection of
17 affected employees;
- 18 10. Any employee employed by an establishment which is an organized
19 nonprofit camp, religious, or nonprofit educational conference center, if
20 it does not operate for more than two hundred ten (210) days in any
21 calendar year;
- 22 11. Any employee whose function is to provide twenty-four (24) hour
23 residential care on the employer's premises in a parental role to children
24 who are primarily dependent, neglected, and abused and who are in the
25 care of private, nonprofit childcaring facilities licensed by the Cabinet
26 for Health and Family Services under KRS 199.640 to 199.670;
- 27 12. Any individual whose function is to provide twenty-four (24) hour

1 residential care in his or her own home as a family caregiver, family
2 home provider, or adult foster care provider and who is approved to
3 provide family caregiver services to an adult with a disability through a
4 contractual relationship with a community board for mental health or
5 individuals with an intellectual disability established under KRS
6 210.370 to 210.460 or through a contractual relationship with a certified
7 waiver provider as defined in 907 KAR 7:005 sec. 1(5), or is certified or
8 licensed by the Cabinet for Health and Family Services to provide adult
9 foster care;

10 13. A direct seller as defined in Section 3508(b)(2) of the Internal Revenue
11 Code of 1986; or

12 14. Any individual whose function is to provide behavior support services,
13 behavior programming services, case management services, community
14 living support services, positive behavior support services, or respite
15 services through a contractual relationship with a certified waiver
16 provider, as defined in 907 KAR 7:005 sec. 1(5), pursuant to a 1915(c)
17 home and community based services waiver program, as defined in 907
18 KAR 7:005 sec. 1(2);

19 ~~[(b) "Agriculture" means farming in all its branches, including cultivation and~~
20 ~~tillage of the soil; dairying; production, cultivation, growing, and harvesting of~~
21 ~~any agricultural or horticultural commodity; raising of livestock, bees,~~
22 ~~fur-bearing animals, or poultry; and any practice, including any forestry or~~
23 ~~lumbering operations, performed on a farm in conjunction with farming~~
24 ~~operations, including preparation and delivery of produce to storage, to~~
25 ~~market, or to carriers for transportation to market;]~~

26 (c) "Gratuity" means voluntary monetary contribution received by an employee
27 from a guest, patron, or customer for services rendered;

1 (d) "Tipped employee" means any employee engaged in an occupation in which
2 he or she customarily and regularly receives more than thirty dollars (\$30) per
3 month in tips; and

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

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

7 *In every job posting, the employer responsible for the job posting shall disclose the*
8 *wages or wage range, as well as a general description of all benefits or other*
9 *compensation, associated with the position described in the job posting.*

10 ➔Section 3. KRS 95A.250 is amended to read as follows:

11 (1) (a) An eligible local government shall be entitled to receive an annual supplement
12 of three thousand dollars (\$3,000) and, beginning July 1, 2018, an annual
13 supplement of four thousand dollars (\$4,000) for each qualified professional
14 firefighter it employs, plus an amount equal to the required employer's
15 contribution on the supplement to the defined benefit pension plan, or to a
16 plan qualified under Section 401(a) or Section 457 of the Internal Revenue
17 Code of 1954 as amended.

18 (b) The employer's contribution to any of these plans on the supplement shall not
19 exceed the required employer's contribution to the County Employees
20 Retirement System pursuant to KRS Chapter 78 for the hazardous duty
21 category. The pension contribution on the supplement shall be paid whether
22 the professional firefighter entered the system under hazardous duty coverage
23 or nonhazardous coverage.

24 (c) The local unit of government shall pay the amount received for retirement
25 coverage to the appropriate retirement system to cover the required employer
26 contribution on the supplement.

27 (d) Should the foundation program funds be insufficient to pay employer

1 contributions to the system, then the total amount available for pension
2 payments shall be prorated to each eligible government so that each receives
3 the same percentage of required pension costs attributable to the supplement.

- 4 (e) 1. In addition to the payments received under paragraphs (a) and (b) of this
5 subsection, but only if sufficient funds are available to fully reimburse
6 each eligible local government for the employer contributions to the
7 pension system, each local government shall receive an administrative
8 expense reimbursement in an amount equal to seven and sixty-five one-
9 hundredths percent (7.65%) of the total annual supplement received
10 greater than three thousand one hundred dollars (\$3,100) for each
11 qualified professional firefighter it employs, subject to the cap
12 established by subparagraph 3. of this paragraph.
- 13 2. The local government may use the moneys received under this paragraph
14 in any manner it deems necessary to partially cover the costs of
15 administering the payments received under paragraph (a) of this
16 subsection.
- 17 3. The total amount distributed under this paragraph shall not exceed the
18 total sum of two hundred fifty thousand dollars (\$250,000) for each
19 fiscal year. If there are insufficient funds to provide for full
20 reimbursement as provided in subparagraph 1. of this paragraph, then
21 the amount shall be distributed pro rata to each eligible local
22 government so that each receives the same percentage attributable to its
23 total receipt of the cash salary supplement.
- 24 (2) (a) Each qualified professional firefighter, whose local government receives a
25 supplement pursuant to subsection (1)(a) of this section due to employment of
26 the firefighter, shall receive distribution of the supplement from that local
27 government in twelve (12) equal monthly installments with his or her pay for

1 the last pay period of each month. The monthly distribution shall be calculated
2 by dividing the supplement amount established in subsection (1)(a) of this
3 section by twelve (12).

4 (b) The supplement disbursed to a qualified professional firefighter pursuant to
5 this section shall not be considered "wages" as defined by KRS
6 ~~337.010(1)(f)1~~~~337.010(1)(e)1~~, and shall not be included in the hourly wage
7 rate for calculation of overtime pursuant to KRS 337.285 for scheduled
8 overtime. The supplement shall be included in the hourly wage rates for
9 calculation of overtime for unscheduled overtime pursuant to KRS 337.285.

10 (c) To determine the addition to the hourly wage rate for calculation of overtime
11 on unscheduled overtime, the annual supplement shall be divided by two
12 thousand eighty (2,080). The overtime rate for unscheduled overtime shall be
13 calculated by adding the quotient, which is the amount of the annual
14 supplement divided by two thousand eighty (2,080), to the hourly wage rate
15 and multiplying the total by one and one-half (1.5). The enhanced overtime
16 rate shall be paid only for unscheduled overtime. Scheduled overtime shall be
17 paid at one and one-half (1.5) times the regular hourly wage rate, excluding
18 the supplement.

19 (3) (a) The Kentucky Community and Technical College System shall be entitled to
20 receive annually a supplement equal to the amount determined in subsection
21 (1) of this section for each Kentucky fire and rescue training coordinator
22 employed by the Kentucky Community and Technical College System who
23 meets the qualifications for individual firefighters required in KRS 95A.230,
24 plus an amount equal to the required employer's contribution on the
25 supplement to the defined benefit pension plan.

26 (b) The Department of Military Affairs shall be entitled to receive annually a
27 supplement equal to the amount determined in subsection (1) of this section

1 for each civilian firefighter employed by the Department of Military Affairs
2 who meets the qualifications for individual firefighters required in KRS
3 95A.230, plus an amount equal to the required employer's contribution on the
4 supplement to the defined benefit pension plan.

5 (c) Each fire and rescue training coordinator employed by the Kentucky
6 Community and Technical College System and each civilian firefighter
7 employed by the Department of Military Affairs, whose employer receives a
8 supplement pursuant to this subsection, shall receive distribution from that
9 employer of the supplement which his or her qualifications brought to the
10 employer. The supplement distributed shall be in addition to his or her regular
11 salary.

12 →Section 4. KRS 337.020 is amended to read as follows:

13 Every employer doing business in this state shall, as often as semimonthly, pay to each of
14 its employees all wages or salary earned to a day not more than eighteen (18) days prior to
15 the date of that payment. Any employee who is absent at the time fixed for payment, or
16 who, for any other reason, is not paid at that time, shall be paid thereafter at any time
17 upon six (6) days' demand. No employer subject to this section shall, by any means,
18 secure exemption from it. Every such employee shall have a right of action against any
19 such employer for the full amount of his wages due on each regular pay day. The
20 provisions of this section do not apply to those individuals defined in KRS
21 337.010(2)(b)2[337.010(2)(a)2].