

1 AN ACT relating to paycheck protection.

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

3 ➔Section 1. KRS 336.180 is amended to read as follows:

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

5 **(1) "Candidate" has the same meaning as in KRS 121.015;**

6 **(2) "Committee" has the same meaning as in KRS 121.015;**

7 **(3) "Contributing organization" has the same meaning as in KRS 121.015;**

8 **(4) "Contribution" has the same meaning as in KRS 121.015;**

9 **(5) "Election" has the same meaning as in KRS 121.015;**

10 ~~[(1) The term "labor organization" means any organization of any kind, or any agency~~
 11 ~~or employee representation committee, association or union which exists for the~~
 12 ~~purpose, in whole or in part, of dealing with employers concerning wages, rates of~~
 13 ~~pay, hours of employment or conditions of work, or other forms of compensation;]~~

14 **(6)**~~[(2)]~~ **"Employer"**~~[The term "employer"]~~ means all persons, firms, associations,
 15 corporations, public employers, public school employers, and public colleges,
 16 universities, institutions, and education agencies;~~[and]~~

17 **(7) "Fundraiser" has the same meaning as in KRS 121.015;**

18 **(8) "Independent expenditure" has the same meaning as in KRS 121.015;**

19 **(9) "Labor organization" means any organization of any kind, or any agency or**
 20 **employee representation committee, association, or union which exists for the**
 21 **purpose, in whole or in part, of dealing with employers concerning wages, rates**
 22 **of pay, hours of employment or conditions of work, or other forms of**
 23 **compensation;**

24 ~~[(3) The term "public employee" means an employee of a "public agency" as that term~~
 25 ~~is defined in KRS 61.870(1).]~~

26 **(10) "Political activities" means any contribution or independent expenditure made to**
 27 **any committee, contributing organization, candidate, slate of candidates, or**

1 fundraiser, or for any testimonial affair, or made in any manner intended to
2 influence the outcome of an election, otherwise promote or support the defeat of
3 any candidate, slate of candidates, or ballot measure, or advance any political
4 position regarding any election, candidate, slate of candidates, or ballot measure
5 held by any person or entity other than the state public retirement employee;

6 (11) "Slate of candidates" has the same meaning as in KRS 121.015;

7 (12) "State public retirement employee" means a public employee who is an active
8 member of the Kentucky Employees Retirement System, the State Police
9 Retirement System, or the Kentucky Teachers' Retirement System;

10 (13) "State public retirement employer" means a public agency, board, commission,
11 authority, or instrumentality organized under the state branches of government
12 and excludes instrumentalities of a county, city, or municipality; and

13 (14) "Testimonial affair" has the same meaning as in KRS 121.015.

14 ➔Section 2. KRS 336.134 is amended to read as follows:

15 (1) A state public retirement employer~~[A public employer or a labor organization~~
16 ~~representing public employees]~~ shall not deduct membership dues, fees,
17 assessments, or other charges of a labor organization~~[an employee organization,~~
18 ~~association, or union]~~ from the wages, earnings, or compensation of a state public
19 retirement employee~~[without the express written consent of the public employee.~~
20 ~~This consent shall be made prior to any deductions being made and may be revoked~~
21 ~~by the public employee at any time by written notice to the employer].~~ Labor
22 organizations representing state public retirement employees shall be solely
23 responsible for collecting membership dues, fees, assessments, or other charges,
24 including those that fund political activities, directly from the state public
25 retirement employee enrolled as a member of that labor organization.

26 (2) State public retirement employers shall provide notice to state public retirement
27 employees regarding their rights to abstain from enrolling as members in a labor

1 organization. Written or electronic forms, approved by the Attorney General,
2 utilized by state public retirement employers to meet the requirement of this
3 subsection shall contain a statement in fourteen (14) point boldface font type that
4 reads: "The Commonwealth of Kentucky wishes to make you aware that you
5 have a First Amendment right to refrain from joining and paying dues or fees to
6 a labor organization. Your membership and payment of dues are voluntary and
7 you may not be discriminated against for your refusal to join or financially
8 support a labor organization. By signing this form, you are acknowledging that
9 you were informed of this right."

10 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO
11 READ AS FOLLOWS:

12 No state public retirement employer shall collect financial information from state
13 public retirement employees, including but not limited to bank or other financial
14 account institution and routing numbers, and transmit that information to any labor
15 organization, person, or other legal entity to facilitate the collection of dues, fees,
16 assessments, payments, or other charges if any such funds are to be used for political
17 activities.

18 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO
19 READ AS FOLLOWS:

20 Sections 2, 3, 4, 5, 6, and 7 of this Act shall not apply to any deductions from a state
21 public retirement employee's wages, compensation, or earnings made by the state
22 public retirement employer in accordance with any joint wage agreement or collective
23 bargaining contracts entered into, modified, renewed, or extended prior to the effective
24 date of this Act. However, any joint wage agreements or collective bargaining contracts
25 entered into, modified, renewed, or extended after the effective date of this Act, as well
26 as any deductions made to a state public retirement employee's wages, compensation,
27 or earnings made in accordance with those joint wage agreements or collective

1 *bargaining contracts or otherwise made after the effective date of this Act, shall comply*
 2 *with Sections 2, 3, 4, 5, 6, and 7 of this Act.*

3 ➔Section 5. KRS 336.135 is amended to read as follows:

4 (1) As used in this section, "employee" means any person employed by or suffered or
 5 permitted to work for a public or private employer, except "employee" shall not
 6 mean any person covered by the Federal Railway Labor Act and the National Labor
 7 Relations Act.

8 (2) An employee shall not be enrolled as a member of a labor organization unless the
 9 employee has affirmatively requested membership in writing.

10 *(3) A state public retirement employee enrolled as a member of a labor organization*
 11 *shall, on an annual basis, submit in writing his or her request to continue*
 12 *enrollment as a member with the labor organization or his or her status as a*
 13 *member shall lapse.*

14 ~~(4)(3)~~ A sum shall not be withheld from the earnings of any employee for the
 15 purpose of paying union dues or other fees paid by members of a labor organization
 16 or employees who are non-members except upon the written or electronic
 17 authorization of the employee member or employee non-member *unless the*
 18 *employer is a state public retirement employer, in which case Section 2 of this Act*
 19 *applies to that employer.*

20 ~~(5)(4)~~ The requirements in this section shall not be waived by any member or non-
 21 member of a labor organization, nor required to be waived as a condition of
 22 obtaining or maintaining employment.

23 ~~(6)(5)~~ Signing or refraining from signing the authorization set forth in subsections
 24 (2) and ~~(4)(3)~~ of this section shall not be made a condition of obtaining or
 25 maintaining employment.

26 ~~(7)(6)~~ (a) A labor organization shall maintain financial records substantially
 27 similar to and no less comprehensive than the records required to be

1 maintained under 29 U.S.C. sec. 431(b).

2 (b) These records shall be kept in a searchable electronic format and provided to
3 every employee it represents.

4 (c) The records and the data or summary by which the records can be verified,
5 explained, or clarified shall be kept for a period of not less than five (5) years.

6 **(d) A labor organization composed of state public retirement employees shall**
7 **transmit financial records detailing the labor organization's quarterly**
8 **expenses to its state public retirement employee members on an annual**
9 **basis.**

10 ~~(8)(7)~~ This section shall not apply to any agreement between employers and
11 employees or labor organizations entered into before January 9, 2017, but any such
12 agreement entered into, opted in, renewed, or extended on or after January 9, 2017,
13 and which violates this section shall be unlawful and void.

14 ~~(9)(8)~~ This section shall be known as the "Paycheck Protection Act."

15 ➔Section 6. KRS 161.158 is amended to read as follows:

16 (1) (a) Each district board of education may form its employees into a group or
17 groups or recognize existing groups for the purpose of obtaining the
18 advantages of group life, disability, medical, and dental insurance, or any
19 group insurance plans to aid its employees including the state employee health
20 insurance group as described in KRS 18A.225 to 18A.2287, as long as the
21 employees continue to be employed by the board of education. Medical and
22 dental group insurance plans obtained under authority of this section may
23 include insurance benefits for the families of the insured group or groups of
24 employees. Any district board of education may pay all or part of the
25 premium on the policies, and may deduct from the salaries of the employees
26 that part of the premium which is to be paid by them and may contract with
27 the insurer to provide the above benefits. As permitted in KRS 160.280(4),

1 board members shall be eligible to participate in any group medical or dental
2 insurance provided by the district for employees.

3 (b) If a district board of education participates in the state employee health
4 insurance program, as described in KRS 18A.225 to 18A.2287, for its active
5 employees and terminates participation and there is a state appropriation
6 approved by the General Assembly for the employer's contribution for active
7 employees' health insurance coverage, neither the board of education nor the
8 employees shall receive the state-funded contribution after termination from
9 the state employee health insurance program.

10 (c) If a district board of education participates in the state employee health
11 insurance program as described in KRS 18A.225 to 18A.2287 for its active
12 employees, all district employees who are required to be offered health
13 insurance coverage for purposes of, and in accordance with, the federal
14 Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148,
15 shall be eligible for the state-funded contribution appropriated by the General
16 Assembly for the employer's contribution for active employees' health
17 insurance coverage.

18 (2) (a) Each district board of education shall adopt policies or regulations which will
19 provide for:

20 1. a. Deductions from salaries of its employees or groups of employees
21 whenever a request is presented to the board by said employees or
22 groups thereof.

23 b. The deductions shall be made from salaries earned in at least eight
24 (8) different pay periods.

25 c. The deductions may be made for, but are not limited to,
26 membership dues, tax-sheltered annuities, and group insurance
27 premiums.

- 1 d. The district board is prohibited from deducting membership dues
2 of an employee organization, membership organization, or labor
3 organization~~[without the express written consent of the employee.
4 Express written consent of the employee may be revoked in
5 writing by the employee at any time]~~. This provision shall apply to
6 contracts entered into, opted in, extended or renewed on or after
7 January 9, 2017.
- 8 e. With the exception of membership dues, the board shall not be
9 required to make more than one (1) remittance of amounts
10 deducted during a pay period for a separate type of deduction; and
- 11 2. Deductions from payments for the per diem and actual expenses
12 provided under KRS 160.280(1) to members of the district board of
13 education whenever a request is presented by a board member to the
14 board. The deductions may be made for but not be limited to
15 membership dues, health insurance purchases, scholarship funds, and
16 contributions to a political action committee.
- 17 (b) The deductions under paragraph (a)1. and 2. of this subsection shall be
18 remitted to the appropriate organization or association as specified by the
19 employees within thirty (30) days following the deduction, provided the
20 district has received appropriate invoices or necessary documentation.
- 21 (c) Health insurance, life insurance, and tax-sheltered annuities shall be
22 interpreted as separate types of deductions. When amounts have been
23 correctly deducted and remitted by the board, the board shall bear no further
24 responsibility or liability for subsequent transaction.
- 25 (3) Payments and deductions made by the board of education under the authority of this
26 section are presumed to be for services rendered and for the benefit of the common
27 schools, and the payments and deductions shall not affect the eligibility of any

1 school system to participate in the public school funding program as established in
2 KRS Chapter 157.

3 ➔Section 7. KRS 164.365 is amended to read as follows:

4 (1) Anything in any statute of the Commonwealth to the contrary notwithstanding, the
5 power over and control of appointments, qualifications, salaries, and compensation
6 payable out of the State Treasury or otherwise, promotions, and official relations of
7 all employees of Eastern Kentucky University, Western Kentucky University,
8 Murray State University, Northern Kentucky University, and Morehead State
9 University, as provided in KRS 164.350 and 164.360, and of Kentucky State
10 University and the Kentucky Community and Technical College System, shall be
11 under the exclusive jurisdiction of the respective governing boards of each of the
12 institutions named.

13 (2) The board of regents for the Kentucky Community and Technical College System
14 shall develop personnel rules for the governing of its members, officers, agents, and
15 employees by June 30, 1998. The board shall adopt interim policies to govern
16 employees hired from July 1, 1997, until the permanent rules are adopted.

17 (3) Upon receipt of a written authorization from an employee of the Kentucky
18 Community and Technical College System, the board shall deduct dues from the
19 employee's paycheck for employee membership organizations, **except that no**
20 **deduction shall be made in association with membership dues, fees, assessments**
21 **or other charges funding political activity for a labor organization**. Dues shall be
22 deducted at a rate established by the organization, and shall be discontinued upon
23 written notification by an employee to both the system and the employee
24 organization. On a quarterly basis, the Kentucky Community and Technical College
25 System shall provide to each employee membership organization an updated list
26 that includes the names and home addresses of the employees who are having dues
27 deducted from their paychecks for the purpose of maintaining membership in that

1 organization.

2 ➔Section 8. KRS 336.990 is amended to read as follows:

- 3 (1) Upon proof that any person employed by the Education and Labor Cabinet as a
4 labor inspector has taken any part in any strike, lockout or similar labor dispute, the
5 person shall forfeit his or her office.
- 6 (2) The following civil penalties shall be imposed, in accordance with the provisions in
7 KRS 336.985, for violations of the provisions of this chapter:
- 8 (a) Any person who violates KRS 336.110 or 336.130 shall for each offense be
9 assessed a civil penalty of not less than one hundred dollars (\$100) nor more
10 than one thousand dollars (\$1,000);
- 11 (b) Any corporation, association, organization, or person that violates KRS
12 336.190 and 336.200 shall be assessed a civil penalty of not less than one
13 hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each
14 offense. Each act of violation, and each day during which such an agreement
15 remains in effect, shall constitute a separate offense;
- 16 (c) Any employer who violates the provisions of KRS 336.220 shall be assessed a
17 civil penalty of not less than one hundred dollars (\$100) nor more than one
18 thousand dollars (\$1,000) for each violation;~~and~~
- 19 (d) Any labor organization who violates KRS 336.135 shall be assessed a civil
20 penalty of not less than one hundred dollars (\$100) nor more than one
21 thousand dollars (\$1,000) for each offense; **and**
- 22 **(e) Any state public retirement employer or labor organization that violates**
23 **Sections 2, 3, 4, 5, 6, and 7 of this Act shall be assessed a civil penalty of not**
24 **less than one hundred dollars (\$100) nor more than one thousand dollars**
25 **(\$1,000) for each offense.**
- 26 (3) Any labor organization, employer, or other person who directly or indirectly
27 violates KRS 336.130(3) shall be guilty of a Class A misdemeanor.

- 1 (4) Any person aggrieved as a result of any violation or threatened violation of KRS
2 336.130(3) may seek abatement of the violation or threatened violation by
3 petitioning a court of competent jurisdiction for injunctive relief and shall be
4 entitled to costs and reasonable attorney fees if he or she prevails in the action.
- 5 (5) Any person injured as a result of any violation or threatened violation of KRS
6 336.130(3) may recover all damages resulting from the violation or threatened
7 violation and shall be entitled to costs and reasonable attorney fees if he or she
8 prevails in the action.