AN ACT relating to wage transparency.

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

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

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

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

(b) "Department" means the Department of Workplace Standards in the Education and Labor Cabinet;

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

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

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

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

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

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

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

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

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

2. For the purposes of calculating hourly wage rates for scheduled overtime for professional firefighters, as defined in KRS 95A.210, "wages" shall not include the distribution to qualified professional firefighters by local governments of supplements received from the Firefighters Foundation Program Fund. For the purposes of calculating hourly wage rates for unscheduled overtime for professional firefighters, as defined in KRS 95A.210, "wages" shall include the distribution to qualified professional firefighters by local governments of supplements received from the Firefighters Foundation Program Fund; and

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

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

(a) "Agriculture" means farming in all its branches, including cultivation and
tillage of the soil; dairying; production, cultivation, growing, and harvesting
of any agricultural or horticultural commodity; raising of livestock, bees,
furbearing animals, or poultry; and any practice, including any forestry or
lumbering operations, performed on a farm in conjunction with farming
operations, including preparation and delivery of produce to storage, to
market, or to carriers for transportation to market;

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

1. Any individual employed in agriculture;

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

3. Any individual employed by the United States;

4. Any individual employed in domestic service in or about a private
home. The provisions of this section shall include individuals employed
in domestic service in or about the home of an employer where there is
more than one (1) domestic servant regularly employed;

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

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

7. Any individual employed as a baby-sitter in an employer's home, or an
individual employed as a companion by a sick, convalescing, or elderly
person or by the person's immediate family, to care for that sick,
convalescing, or elderly person and whose principal duties do not
include housekeeping;

8. Any individual engaged in the delivery of newspapers to the consumer;

9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A,
30A, and 18A provided that the secretary of the Personnel Cabinet shall
have the authority to prescribe by administrative regulation those
emergency employees, or others, who shall receive overtime pay rates
necessary for the efficient operation of government and the protection of
affected employees;

10. Any employee employed by an establishment which is an organized
nonprofit camp, religious, or nonprofit educational conference center, if
it does not operate for more than two hundred ten (210) days in any
calendar year;

11. Any employee whose function is to provide twenty-four (24) hour
residential care on the employer's premises in a parental role to children
who are primarily dependent, neglected, and abused and who are in the
care of private, nonprofit childcaring facilities licensed by the Cabinet
for Health and Family Services under KRS 199.640 to 199.670;

12. Any individual whose function is to provide twenty-four (24) hour
residential care in his or her own home as a family caregiver, family
home provider, or adult foster care provider and who is approved to
provide family caregiver services to an adult with a disability through a
contractual relationship with a community board for mental health or
individuals with an intellectual disability established under KRS
210.370 to 210.460 or through a contractual relationship with a certified
waiver provider as defined in 907 KAR 7:005 sec. 1(5), or is certified or
licensed by the Cabinet for Health and Family Services to provide adult
foster care;

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

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

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

(c) "Gratuity" means voluntary monetary contribution received by an employee
from a guest, patron, or customer for services rendered;
(d) "Tipped employee" means any employee engaged in an occupation in which he or she customarily and regularly receives more than thirty dollars ($30) per month in tips; and


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

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

SECTION 3. KRS 95A.250 is amended to read as follows:

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

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

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

(d) Should the foundation program funds be insufficient to pay employer
contributions to the system, then the total amount available for pension
payments shall be prorated to each eligible government so that each receives
the same percentage of required pension costs attributable to the supplement.

(e) 1. In addition to the payments received under paragraphs (a) and (b) of this
subsection, but only if sufficient funds are available to fully reimburse
each eligible local government for the employer contributions to the
pension system, each local government shall receive an administrative
expense reimbursement in an amount equal to seven and sixty-five one-
hundredths percent (7.65%) of the total annual supplement received
greater than three thousand one hundred dollars ($3,100) for each
qualified professional firefighter it employs, subject to the cap
established by subparagraph 3. of this paragraph.

2. The local government may use the moneys received under this
paragraph in any manner it deems necessary to partially cover the costs
of administering the payments received under paragraph (a) of this
subsection.

3. The total amount distributed under this paragraph shall not exceed the
total sum of two hundred fifty thousand dollars ($250,000) for each
fiscal year. If there are insufficient funds to provide for full
reimbursement as provided in subparagraph 1. of this paragraph, then
the amount shall be distributed pro rata to each eligible local
government so that each receives the same percentage attributable to its
total receipt of the cash salary supplement.

24 (2) (a) Each qualified professional firefighter, whose local government receives a
supplement pursuant to subsection (1)(a) of this section due to employment of
the firefighter, shall receive distribution of the supplement from that local
government in twelve (12) equal monthly installments with his or her pay for
the last pay period of each month. The monthly distribution shall be
calculated by dividing the supplement amount established in subsection (1)(a)
of this section by twelve (12).

(b) The supplement disbursed to a qualified professional firefighter pursuant to
this section shall not be considered "wages" as defined in Section 1 of this
Act[by KRS 337.010(1)(c)]. and shall not be included in the hourly wage
rate for calculation of overtime pursuant to KRS 337.285 for scheduled
overtime. The supplement shall be included in the hourly wage rates for
calculation of overtime for unscheduled overtime pursuant to KRS 337.285.

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

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

(b) The Department of Military Affairs shall be entitled to receive annually a
supplement equal to the amount determined in subsection (1) of this section
for each civilian firefighter employed by the Department of Military Affairs
who meets the qualifications for individual firefighters required in KRS
95A.230, plus an amount equal to the required employer's contribution on the
supplement to the defined benefit pension plan.

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

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

Every employer doing business in this state shall, as often as semimonthly, pay to each of
its employees all wages or salary earned to a day not more than eighteen (18) days prior
to the date of that payment. Any employee who is absent at the time fixed for payment, or
who, for any other reason, is not paid at that time, shall be paid thereafter at any time
upon six (6) days' demand. No employer subject to this section shall, by any means,
secure exemption from it. Every such employee shall have a right of action against any
such employer for the full amount of his or her wages due on each regular pay day. The
provisions of this section do not apply to those individuals defined in Section 1 of this
Act [KRS 337.010(2)(a)2].