

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
12 officer, 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) Energy and Environment Cabinet:
- 12 (a) Office of the Secretary.
- 13 1. Office of Legislative and Intergovernmental Affairs.
- 14 2. Office of Legal Services.
- 15 a. Legal Division I.
- 16 b. Legal Division II.
- 17 3. Office of Administrative Hearings.
- 18 4. Office of Communication.
- 19 5. Mine Safety Review Commission.
- 20 6. Office of Kentucky Nature Preserves.
- 21 7. Kentucky Public Service Commission.
- 22 (b) Department for Environmental Protection.
- 23 1. Office of the Commissioner.
- 24 2. Division for Air Quality.
- 25 3. Division of Water.
- 26 4. Division of Environmental Program Support.
- 27 5. Division of Waste Management.

- 1 6. Division of Enforcement.
- 2 7. Division of Compliance Assistance.
- 3 (c) Department for Natural Resources.
- 4 1. Office of the Commissioner.
- 5 2. Division of Mine Permits.
- 6 3. Division of Mine Reclamation and Enforcement.
- 7 4. Division of Abandoned Mine Lands.
- 8 5. Division of Oil and Gas.
- 9 6. Division of Mine Safety.
- 10 7. Division of Forestry.
- 11 8. Division of Conservation.
- 12 9. Office of the Reclamation Guaranty Fund.
- 13 (d) Office of Energy Policy.
- 14 1. Division of Energy Assistance.
- 15 (e) Office of Administrative Services.
- 16 1. Division of Human Resources Management.
- 17 2. Division of Financial Management.
- 18 3. Division of Information Services.
- 19 (3) Public Protection Cabinet.
- 20 (a) Office of the Secretary.
- 21 1. Office of Communications and Public Outreach.
- 22 2. Office of Legal Services.
- 23 a. Insurance Legal Division.
- 24 b. Charitable Gaming Legal Division.
- 25 c. Alcoholic Beverage Control Legal Division.
- 26 d. Housing, Buildings and Construction Legal Division.
- 27 e. Financial Institutions Legal Division.

- 1 f. Professional Licensing Legal Division.
- 2 3. Office of Administrative Hearings.
- 3 4. Office of Administrative Services.
- 4 a. Division of Human Resources.
- 5 b. Division of Fiscal Responsibility.
- 6 (b) Office of Claims and Appeals.
- 7 1. Board of Tax Appeals.
- 8 2. Board of Claims.
- 9 3. Crime Victims Compensation Board.
- 10 (c) Kentucky Boxing and Wrestling Commission.
- 11 (d) Kentucky Horse Racing Commission.
- 12 1. Office of Executive Director.
- 13 a. Division of Pari-mutuel Wagering and Compliance.
- 14 b. Division of Stewards.
- 15 c. Division of Licensing.
- 16 d. Division of Enforcement.
- 17 e. Division of Incentives and Development.
- 18 f. Division of Veterinary Services.
- 19 (e) Department of Alcoholic Beverage Control.
- 20 1. Division of Distilled Spirits.
- 21 2. Division of Malt Beverages.
- 22 3. Division of Enforcement.
- 23 (f) Department of Charitable Gaming.
- 24 1. Division of Licensing and Compliance.
- 25 2. Division of Enforcement.
- 26 (g) Department of Financial Institutions.
- 27 1. Division of Depository Institutions.

- 1 2. Division of Non-Depository Institutions.
- 2 3. Division of Securities.
- 3 (h) Department of Housing, Buildings and Construction.
- 4 1. Division of Fire Prevention.
- 5 2. Division of Plumbing.
- 6 3. Division of Heating, Ventilation, and Air Conditioning.
- 7 4. Division of Building Code Enforcement.
- 8 (i) Department of Insurance.
- 9 1. Division of Health and Life Insurance and Managed Care.
- 10 2. Division of Property and Casualty Insurance.
- 11 3. Division of Administrative Services.
- 12 4. Division of Financial Standards and Examination.
- 13 5. Division of Licensing.
- 14 6. Division of Insurance Fraud Investigation.
- 15 7. Division of Consumer Protection.
- 16 (j) Department of Professional Licensing.
- 17 1. Real Estate Authority.
- 18 (4) Transportation Cabinet:
- 19 (a) Department of Highways.
- 20 1. Office of Project Development.
- 21 2. Office of Project Delivery and Preservation.
- 22 3. Office of Highway Safety.
- 23 4. Highway District Offices One through Twelve.
- 24 (b) Department of Vehicle Regulation.
- 25 (c) Department of Aviation.
- 26 (d) Department of Rural and Municipal Aid.
- 27 1. Office of Local Programs.

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

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

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

- 1 (b) Kentucky Department of Parks.
- 2 1. Division of Information Technology.
- 3 2. Division of Human Resources.
- 4 3. Division of Financial Operations.
- 5 4. Division of Purchasing.
- 6 5. Division of Facilities.
- 7 6. Division of Park Operations.
- 8 7. Division of Sales, Marketing, and Customer Service.
- 9 8. Division of Engagement.
- 10 9. Division of Food Services.
- 11 10. Division of Rangers.
- 12 (c) Department of Fish and Wildlife Resources.
- 13 1. Division of Law Enforcement.
- 14 2. Division of Administrative Services.
- 15 3. Division of Engineering, Infrastructure, and Technology.
- 16 4. Division of Fisheries.
- 17 5. Division of Information and Education.
- 18 6. Division of Wildlife.
- 19 7. Division of Marketing.
- 20 (d) Kentucky Horse Park.
- 21 1. Division of Support Services.
- 22 2. Division of Buildings and Grounds.
- 23 3. Division of Operational Services.
- 24 (e) Kentucky State Fair Board.
- 25 1. Office of Administrative and Information Technology Services.
- 26 2. Office of Human Resources and Access Control.
- 27 3. Division of Expositions.

- 1 4. Division of Kentucky Exposition Center Operations.
- 2 5. Division of Kentucky International Convention Center.
- 3 6. Division of Public Relations and Media.
- 4 7. Division of Venue Services.
- 5 8. Division of Personnel Management and Staff Development.
- 6 9. Division of Sales.
- 7 10. Division of Security and Traffic Control.
- 8 11. Division of Information Technology.
- 9 12. Division of the Louisville Arena.
- 10 13. Division of Fiscal and Contract Management.
- 11 14. Division of Access Control.
- 12 (f) Office of the Secretary.
 - 13 1. Office of Finance.
 - 14 2. Office of Government Relations and Administration.
- 15 (g) Office of Legal Affairs.
- 16 (h) Office of Human Resources.
- 17 (i) Office of Public Affairs and Constituent Services.
- 18 (j) Office of Arts and Cultural Heritage.
- 19 (k) Kentucky African-American Heritage Commission.
- 20 (l) Kentucky Foundation for the Arts.
- 21 (m) Kentucky Humanities Council.
- 22 (n) Kentucky Heritage Council.
- 23 (o) Kentucky Arts Council.
- 24 (p) Kentucky Historical Society.
 - 25 1. Division of Museums.
 - 26 2. Division of Oral History and Educational Outreach.
 - 27 3. Division of Research and Publications.

- 1 4. Division of Administration.
- 2 (q) Kentucky Center for the Arts.
- 3 1. Division of Governor's School for the Arts.
- 4 (r) Kentucky Artisans Center at Berea.
- 5 (s) Northern Kentucky Convention Center.
- 6 (t) Eastern Kentucky Exposition Center.
- 7 (9) Personnel Cabinet:
- 8 (a) Office of the Secretary.
- 9 (b) Department of Human Resources Administration.
- 10 (c) Office of Employee Relations.
- 11 (d) Kentucky Public Employees Deferred Compensation Authority.
- 12 (e) Office of Administrative Services.
- 13 (f) Office of Legal Services.
- 14 (g) Governmental Services Center.
- 15 (h) Department of Employee Insurance.
- 16 (i) Office of Diversity, Equality, and Training.
- 17 (j) Office of Public Affairs.
- 18 (10) Education and Labor Cabinet:
- 19 (a) Office of the Secretary.
- 20 1. Office of Legal Services.
- 21 a. Workplace Standards Legal Division.
- 22 b. Workers' Claims Legal Division.
- 23 c. Workforce Development Legal Division.
- 24 2. Office of Administrative Services.
- 25 a. Division of Human Resources Management.
- 26 b. Division of Fiscal Management.
- 27 c. Division of Operations and Support Services.

- 1 3. Office of Technology Services.
- 2 a. Division of Information Technology Services.
- 3 4. Office of Policy and Audit.
- 4 5. Office of Legislative Services.
- 5 6. Office of Communications.
- 6 7. Office of the Kentucky Center for Statistics.
- 7 8. Board of the Kentucky Center for Statistics.
- 8 9. Early Childhood Advisory Council.
- 9 10. Governors' Scholars Program.
- 10 11. Governor's School for Entrepreneurs Program.
- 11 12. Foundation for Adult Education.
- 12 (b) Department of Education.
- 13 1. Kentucky Board of Education.
- 14 2. Kentucky Technical Education Personnel Board.
- 15 3. Education Professional Standards Board.
- 16 (c) Board of Directors for the Center for School Safety.
- 17 (d) Department for Libraries and Archives.
- 18 (e) Kentucky Environmental Education Council.
- 19 (f) Kentucky Educational Television.
- 20 (g) Kentucky Commission on the Deaf and Hard of Hearing.
- 21 (h) Department of Workforce Development.
- 22 1. Career Development Office.
- 23 2. Office of Vocational Rehabilitation.
- 24 a. Division of Kentucky Business Enterprise.
- 25 b. Division of the Carl D. Perkins Vocational Training Center.
- 26 c. Division of Blind Services.
- 27 d. Division of Field Services.

- 1 e. Statewide Council for Vocational Rehabilitation.
- 2 f. Employment First Council.
- 3 3. Office of Employer and Apprenticeship Services.
- 4 a. Division of Apprenticeship.
- 5 4. Kentucky Apprenticeship Council.
- 6 5. Division of Technical Assistance.
- 7 6. Office of Adult Education.
- 8 7. Office of the Kentucky Workforce Innovation Board.
- 9 (i) Department of Workplace Standards.
 - 10 1. Division of Occupational Safety and Health Compliance.
 - 11 2. Division of Occupational Safety and Health Education and
 - 12 Training.
 - 13 3. Division of Wages and Hours.
- 14 (j) Office of Unemployment Insurance.
- 15 (k) Kentucky Unemployment Insurance Commission.
- 16 (l) Department of Workers' Claims.
 - 17 1. Division of Workers' Compensation Funds.
 - 18 2. Office of Administrative Law Judges.
 - 19 3. Division of Claims Processing.
 - 20 4. Division of Security and Compliance.
 - 21 5. Division of Specialist and Medical Services.
 - 22 6. Workers' Compensation Board.
- 23 (m) Workers' Compensation Funding Commission.
- 24 (n) Kentucky Occupational Safety and Health Standards Board.
- 25 (o) State Labor Relations Board.
- 26 (p) Employers' Mutual Insurance Authority.
- 27 (q) Kentucky Occupational Safety and Health Review Commission.

- 1 (r) Workers' Compensation Nominating Committee.
- 2 (s) Office of Educational Programs.
- 3 (t) Kentucky Workforce Innovation Board.
- 4 (u) Kentucky Commission on Proprietary Education.
- 5 (v) Kentucky Work Ready Skills Advisory Committee.
- 6 (w) Kentucky Geographic Education Board.
- 7 **(x) Prevailing Wage Review Board.**

8 III. Other departments headed by appointed officers:

- 9 (1) Council on Postsecondary Education.
- 10 (2) Department of Military Affairs.
- 11 (3) Department for Local Government.
- 12 (4) Kentucky Commission on Human Rights.
- 13 (5) Kentucky Commission on Women.
- 14 (6) Department of Veterans' Affairs.
- 15 (7) Kentucky Commission on Military Affairs.
- 16 (8) Office of Minority Empowerment.
- 17 (9) Governor's Council on Wellness and Physical Activity.
- 18 (10) Kentucky Communications Network Authority.

19 ➔Section 2. KRS 99.480 is amended to read as follows:

20 **(1)** Before the agency enters into any contracts for work of demolition, grading,
21 clearing or construction of utilities or other facilities or site improvements, it shall
22 satisfy all requirements of the law, applicable to similar contracts of the community,
23 relating to the advertisement and acceptance of bids, execution of bonds, and award
24 of contracts.

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

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

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

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

- 10 (a) The address of the dwelling inspected;
- 11 (b) The number of rooms, number of receptacles and number of switch boxes
12 inspected;
- 13 (c) Number of code violations, if any;
- 14 (d) A description of each code violation, and recommended change to correct the
15 violation;
- 16 (e) The date and time of day the inspection commenced;
- 17 (f) The time, in hours and minutes, required for the inspection;
- 18 (g) The number of miles and hours and minutes of travel time incurred by the
19 inspector for that inspection, if mileage and travel charges are added to the
20 inspection fee; and
- 21 (h) The amount charged for the inspection, separated into an amount for mileage,
22 if any, and the amount for travel time, if any, and the amount charged for the
23 actual inspection.
- 24 (2) The maximum inspection fee shall be an amount equal to the ***prevailing*** wage paid
25 to ~~a majority of~~ master electricians in the region in which the inspection is made,
26 multiplied by the time required to conduct the inspection. This rate shall not be
27 applied to travel time to and from the inspection.

- 1 (3) An inspector may charge, in addition to the inspection fee, an amount for necessary
2 travel to and from the inspection site. The mileage rate charged shall not exceed the
3 amount per mile allowed to state employees, and the inspector shall charge no more
4 than ten dollars (\$10) per hour for travel time. If two (2) or more inspections are
5 made during one (1) trip, then the cost of travel shall be divided between the
6 inspections made. In no case shall an inspector charge more than once for the same
7 trip, or charge for mileage or time not actually expended.
- 8 (4) Each inspector shall furnish bond of five thousand dollars (\$5,000) with surety
9 satisfactory to the department.
- 10 (5) The department shall design reporting forms which meet the requirements of
11 subsection (1) of this section, and provide these forms to electrical inspectors. The
12 department shall promulgate administrative regulations to administer the
13 requirements of this section.
- 14 (6) Nothing in this section is intended to limit the right of cities or counties to set fees
15 or adopt rules for electrical inspections which are different from those specified in
16 subsection (1), (2), (3), or (4) of this section.
- 17 ➔Section 4. KRS 151B.015 is amended to read as follows:
- 18 (1) The Education and Labor Cabinet is hereby created, which shall constitute a cabinet
19 of the state government within the meaning of KRS Chapter 12. The cabinet shall
20 consist of a secretary and those administrative bodies and employees as provided by
21 law.
- 22 (2) Subject to KRS Chapter 12, the cabinet shall be composed of the major
23 organizational units listed below, units listed in KRS 12.020, and other
24 departments, divisions, and sections as are from time to time deemed necessary for
25 the proper and efficient operation of the cabinet:
- 26 (a) Office of the Secretary, which shall include the Office of Legal Services, the
27 Office of Administrative Services, the Office of Technology Services, the

1 Office of Policy and Audit, the Office of Legislative Services, the Office of
2 Communications, and the Office of Kentucky Center for Statistics, as follows:

- 3 1. The Office of Legal Services shall:
 - 4 a. Be headed by an executive director appointed by the secretary with
5 the approval of the Governor in accordance with KRS 12.050 and
6 12.210; and
 - 7 b. Include the Workplace Standards Legal Division, Workforce
8 Development Legal Division, and Workers' Claims Legal
9 Division, each of which shall be headed by a general counsel
10 appointed by the secretary with the approval of the Governor in
11 accordance with KRS 12.050 and 12.210; and
 - 12 2. The following agencies and entities are attached to the Office of the
13 Secretary for administrative purposes only:
 - 14 a. Early Childhood Advisory Council;
 - 15 b. Governor's School for Entrepreneurs Program;
 - 16 c. Governor's Scholar Program;
 - 17 d. Board of the Kentucky Center for Statistics; and
 - 18 e. Foundation for Adult Education;
- 19 (b) Department of Workers' Claims, which shall be headed by a commissioner
20 appointed by the Governor and confirmed by the Senate in accordance with
21 KRS 342.228. The department shall be divided for administrative purposes
22 into the Office of Administrative Law Judges, the Division of Claims
23 Processing, the Division of Security and Compliance, the Division of
24 Workers' Compensation Funds, and the Division of Specialist and Medical
25 Services. The Office of Administrative Law Judges shall be headed by a chief
26 administrative law judge appointed in accordance with KRS 342.230. Each
27 division in the department shall be headed by a director appointed by the

1 secretary with the approval of the Governor in accordance with KRS 12.050.
2 The Workers' Compensation Board shall be attached to the Department of
3 Workers' Claims for administrative purposes only;

4 (c) Department of Workplace Standards, which shall be headed by a
5 commissioner appointed by the Governor in accordance with KRS 12.040 and
6 shall be divided for administrative purposes into the Division of Occupational
7 Safety and Health Compliance, the Division of Occupational Safety and
8 Health Education and Training, and the Division of Wages and Hours. Each
9 of these divisions shall be headed by a director appointed by the secretary
10 with the approval of the Governor in accordance with KRS 12.050;

11 (d) Office of Unemployment Insurance, which shall be headed by an executive
12 director appointed by the Governor in accordance with KRS 12.040;

13 (e) Kentucky Unemployment Insurance Commission;

14 (f) Department for Libraries and Archives;

15 (g) Office of Educational Programs;

16 (h) Kentucky Workforce Innovation Board; and

17 (i) Department of Workforce Development, which shall be headed by a
18 commissioner appointed by the Governor in accordance with KRS 12.040
19 who shall report to the secretary. Each office or division in the department
20 shall be headed by an executive director or director appointed by the secretary
21 with the approval of the Governor in accordance with KRS 12.050. The
22 department shall be composed of the following offices:

23 1. Career Development Office;

24 2. Office of Vocational Rehabilitation;

25 3. Office of Employer and Apprenticeship Services;

26 4. Office of Adult Education;

27 5. Kentucky Apprenticeship Council, which shall be attached to the

1 department for administrative purposes only;

2 6. Division of Technical Assistance; and

3 7. Office of the Kentucky Workforce Innovation Board.

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

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

6 (b) State Labor Relations Board;

7 (c) Workers' Compensation Funding Commission;

8 (d) Kentucky Occupational Safety and Health Standards Board;

9 (e) Kentucky Environmental Education Council;

10 (f) Kentucky Geographic Education Board;

11 (g) Board of Directors for the Center for School Safety;

12 (h) Kentucky Commission on Proprietary Education;

13 (i) Employers' Mutual Insurance Authority;

14 (j) Workers' Compensation Nominating Committee;

15 (k) Kentucky Commission on the Deaf and Hard of Hearing;

16 (l) Kentucky Educational Television;

17 (m) Kentucky Work Ready Skills Advisory Committee; and

18 (n) Foundation for Adult Education.

19 **(o) Prevailing Wage Review Board.**

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

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

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

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

27 (c) 1. "Wages" includes any compensation due to an employee by reason of

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

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

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

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

27 1. Notwithstanding any voluntary agreement entered into between the

1 United States Department of Labor and a franchisee, neither a franchisee
2 nor a franchisee's employee shall be deemed to be an employee of the
3 franchisor for any purpose under this chapter; and

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

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

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

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

- 14 1. Any individual employed in agriculture;
- 15 2. Any individual employed in a bona fide executive, administrative,
16 supervisory, or professional capacity, or in the capacity of outside
17 salesman, or as an outside collector as the terms are defined by
18 administrative regulations of the commissioner;
- 19 3. Any individual employed by the United States;
- 20 4. Any individual employed in domestic service in or about a private
21 home. The provisions of this section shall include individuals employed
22 in domestic service in or about the home of an employer where there is
23 more than one (1) domestic servant regularly employed;
- 24 5. Any individual classified and given a certificate by the commissioner
25 showing a status of learner, apprentice, worker with a disability,
26 sheltered workshop employee, and student under administrative
27 procedures and administrative regulations prescribed and promulgated

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

- 1 residential care on the employer's premises in a parental role to children
2 who are primarily dependent, neglected, and abused and who are in the
3 care of private, nonprofit childcaring facilities licensed by the Cabinet
4 for Health and Family Services under KRS 199.640 to 199.670;
- 5 12. Any individual whose function is to provide twenty-four (24) hour
6 residential care in his or her own home as a family caregiver, family
7 home provider, or adult foster care provider and who is approved to
8 provide family caregiver services to an adult with a disability through a
9 contractual relationship with a community board for mental health or
10 individuals with an intellectual disability established under KRS
11 210.370 to 210.460 or through a contractual relationship with a certified
12 waiver provider as defined in 907 KAR 7:005 sec. 1(5), or is certified or
13 licensed by the Cabinet for Health and Family Services to provide adult
14 foster care;
- 15 13. A direct seller as defined in Section 3508(b)(2) of the Internal Revenue
16 Code of 1986; or
- 17 14. Any individual whose function is to provide behavior support services,
18 behavior programming services, case management services, community
19 living support services, positive behavior support services, or respite
20 services through a contractual relationship with a certified waiver
21 provider, as defined in 907 KAR 7:005 sec. 1(5), pursuant to a 1915(c)
22 home and community based services waiver program, as defined in 907
23 KAR 7:005 sec. 1(2);
- 24 (b) "Agriculture" means farming in all its branches, including cultivation and
25 tillage of the soil; dairying; production, cultivation, growing, and harvesting
26 of any agricultural or horticultural commodity; raising of livestock, bees,
27 furbearing animals, or poultry; and any practice, including any forestry or

1 lumbering operations, performed on a farm in conjunction with farming
2 operations, including preparation and delivery of produce to storage, to
3 market, or to carriers for transportation to market;

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

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

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

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

11 **(a) "Construction" includes construction, reconstruction, improvement,**
12 **enlargement, alteration, or repair of any public works project by contract**
13 **fairly estimated to cost more than two hundred fifty thousand dollars**
14 **(\$250,000). No public works project, if procured under a single contract**
15 **may be divided into multiple contracts of lesser value to avoid compliance**
16 **with this section;**

17 **(b) "Contractor" and "subcontractor" include any employee or authorized**
18 **agent of any contractor or subcontractor who is in charge of the**
19 **construction of the public works or who is in charge of the employment or**
20 **payment of the employees;**

21 **(c) 1. "Locality" shall be determined by the commissioner. The**
22 **commissioner may designate more than one (1) county as a single**
23 **locality, but if more than one (1) county is designated, the multicounty**
24 **locality shall not extend beyond the boundaries of a state Senatorial**
25 **district. The commissioner shall not designate less than an entire**
26 **county as a locality. If enough competent employees are not available**
27 **in the locality, "locality" shall include the locality nearest to the one**

1 in which the construction work is to be performed and in which
 2 enough competent employees may be found.

3 2. "Locality" with respect to contracts advertised or awarded by the
 4 Transportation Cabinet of this state shall be determined by the
 5 secretary of the Transportation Cabinet. The secretary may designate
 6 any number of counties as constituting a single locality. The secretary
 7 may also designate all counties of the Commonwealth as a single
 8 locality, but shall not designate less than an entire county as a locality;

9 (d) "Public authority" means any:

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

14 2. Nonprofit corporation funded to act as an agency and instrumentality
 15 of the government agency in connection with the construction of
 16 public works; or

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

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

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

25 The following civil penalties shall be imposed by the Education and Labor Cabinet, in
 26 accordance with the provisions in KRS 336.985, for violations of the provisions of this
 27 chapter:

- 1 (1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be
2 assessed a civil penalty of not less than one hundred dollars (\$100) nor more than
3 one thousand dollars (\$1,000) for each offense. Each failure to pay an employee the
4 wages when due him under KRS 337.020 shall constitute a separate offense.
- 5 (2) Any employer who violates KRS 337.050 shall be assessed a civil penalty of not
6 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- 7 (3) Any employer who violates KRS 337.055 shall be assessed a civil penalty of not
8 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)
9 for each offense and shall make full payment to the employee by reason of the
10 violation. Each failure to pay an employee the wages as required by KRS 337.055
11 shall constitute a separate offense.
- 12 (4) Any employer who violates KRS 337.060 shall be assessed a civil penalty of not
13 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)
14 and shall also be liable to the affected employee for the amount withheld, plus
15 interest at the rate of ten percent (10%) per annum.
- 16 (5) Any employer who violates the provisions of KRS 337.065 shall be assessed a civil
17 penalty of not less than one hundred dollars (\$100) nor more than one thousand
18 dollars (\$1,000) for each offense and shall make full payment to the employee by
19 reason of the violation.
- 20 (6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty
21 of not less than one hundred dollars (\$100) nor more than one thousand dollars
22 (\$1,000) for each offense and each day that the failure continues shall be deemed a
23 separate offense.
- 24 (7) Any employer who violates any provision of KRS 337.275 to 337.325, KRS
25 337.345, and KRS 337.385 to 337.405, or willfully hinders or delays the
26 commissioner or the commissioner's authorized representative in the performance
27 of his or her duties under KRS 337.295, or fails to keep and preserve any records as

1 required under KRS 337.320 and 337.325, or falsifies any record, or refuses to
2 make any record or transcription thereof accessible to the commissioner or the
3 commissioner's authorized representative shall be assessed a civil penalty of not
4 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
5 A civil penalty of not less than one thousand dollars (\$1,000) shall be assessed for
6 any subsequent violation of KRS 337.285(4) to (9) and each day the employer
7 violates KRS 337.285(4) to (9) shall constitute a separate offense and penalty.

8 (8) Any employer who pays or agrees to pay wages at a rate less than the rate
9 applicable under KRS 337.275 and 337.285, or any wage order issued pursuant
10 thereto shall be assessed a civil penalty of not less than one hundred dollars (\$100)
11 nor more than one thousand dollars (\$1,000).

12 (9) Any employer who discharges or in any other manner discriminates against any
13 employee because the employee has made any complaint to his or her employer, to
14 the commissioner, or to the commissioner's authorized representative that he or she
15 has not been paid wages in accordance with KRS 337.275 and 337.285 or
16 regulations issued thereunder, or because the employee has caused to be instituted
17 or is about to cause to be instituted any proceeding under or related to KRS
18 337.385, or because the employee has testified or is about to testify in any such
19 proceeding, shall be deemed in violation of KRS 337.275 to 337.325, KRS 337.345,
20 and KRS 337.385 to 337.405 and shall be assessed a civil penalty of not less than
21 one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

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

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

27 (a) Made any complaint to his or her employer, the commissioner, or any other

1 person; or

2 (b) Instituted, or caused to be instituted, any proceeding under or related to KRS
3 337.420 to 337.433; or

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

5 (12) Any person who violates Section 14 of this Act shall be assessed a civil penalty of
6 not less than one hundred dollars (\$100) nor more than one thousand dollars
7 (\$1,000).

8 (13) (a) Any contractor or subcontractor who violates any wage or work hours
9 provision in any contract under Sections 7 to 17 of this Act shall be assessed
10 a civil penalty of not less than one hundred dollars (\$100) nor more than
11 one thousand dollars (\$1,000) for each offense, and the contractor or
12 subcontractor shall make full restitution to all employees to whom the
13 contractor is legally indebted.

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

22 (14) Any public authority, public official, or member of a public authority who
23 willfully fails to comply or to require compliance with Sections 7 to 17 of this Act
24 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor
25 more than one thousand dollars (\$1,000) for each offense. Each day of violation
26 shall constitute a separate offense. If a public authority, public official, or
27 member of a public authority willfully or negligently fails to comply with Sections

1 7 to 17 of this Act and the failure results in damages, injury, or loss to any
2 person, the public authority, public official, or member of a public authority may
3 be held liable in a civil action.

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

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

9 (1) The basic hourly rate paid or being paid subsequent to the commissioner's most
10 recent wage determination to the majority of employees in each classification of
11 construction upon reasonably comparable construction in the locality where the
12 work is to be performed. This rate shall be determined by the commissioner in
13 accordance with subsection (3) of Section 10 of this Act. If there is not a majority
14 paid at the same rate, then the basic hourly rate of pay shall be the average basic
15 hourly rate which shall be determined by adding the basic hourly rates paid to all
16 workers in the classification and dividing by the total number of these workers;
17 and

18 (2) An additional amount per hour equal to the hourly rate of contribution
19 irrevocably made or to be made by an employer on behalf of employees within
20 each classification of construction to a trustee or to a third person pursuant to an
21 enforceable commitment to carry out a financially responsible plan or program.
22 This commitment shall be communicated in writing to the employees affected, for
23 the following fringe benefits: medical or hospital care, pensions on retirement,
24 death compensation for injuries or illness resulting from occupational activity or
25 insurance to provide any of these, unemployment benefits, life insurance,
26 disability and sickness insurance, accident insurance, vacation and holiday pay,
27 defraying costs of apprenticeship or other similar programs, or other bona fide

1 fringe benefits, but only where the employer is not required by other federal, state
2 or local law to provide any of these benefits. This additional amount may, at the
3 discretion of the employer, be paid either in cash to the employee or by
4 contributions for fringe benefits, or partly in cash and partly by these
5 contributions. It is the intention of this subsection to recognize fringe benefits as
6 a part of the prevailing wage rate where made in accordance with this subsection.

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

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

19 (2) The public authority advertising and awarding the contract shall cause to be
20 inserted in the proposal and contract a stipulation that not less than the
21 prevailing hourly rate of wages as determined by the commissioner shall be paid
22 to all employees performing work under the contract. It shall also require in all
23 the contractor's bonds that the contractor include provisions that will guarantee
24 the faithful performance of the prevailing hourly wage clause as provided by
25 contract. The public authority awarding the contract, and its agents and officers,
26 shall take notice of all complaints of violations of Sections 7 to 17 of this Act
27 committed in the course of the execution of the contract, and when making

1 payments to the contractor becoming due under the contract, to withhold and
2 retain amounts due and owing as a result of any violation thereof. A contractor
3 may withhold from any subcontractor sufficient sums to cover any penalties
4 withheld from the contractor by the awarding authority, because of the
5 subcontractor's failure to comply with the terms thereof and, if payment has
6 already been made to the subcontractor, the contractor may recover from him or
7 her the amount of the penalty in a suit at law.

8 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO
9 READ AS FOLLOWS:

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

13 (2) No member of a public authority authorized to contract for or construct public
14 works shall vote for the award of any contract for the construction of the public
15 works, or vote for the disbursement of any funds, unless the public authority has
16 first ascertained from the commissioner the prevailing rates of wages of
17 employees for each class of work required in the locality where the work is to be
18 performed. The determination of prevailing wages shall be made a part of the
19 proposal specifications and contract for the public works.

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

22 (1) The commissioner shall make initial determinations and current revisions of
23 schedules of rates of prevailing wages, of the amount of fringe benefits included
24 as described in Section 7 of this Act, and the number of hours applicable. The
25 commissioner may promulgate administrative regulations to implement Sections
26 7 to 17 of this Act. The administrative regulations shall not require each
27 contractor and subcontractor furnish a sworn affidavit with respect to the wages

1 paid each employee.

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

6 (3) The commissioner may determine schedules and current revisions of the rates of
7 prevailing wages as defined in Section 7 of this Act, but shall not determine
8 wages to be paid for a legal day's work to employees engaged in the construction
9 of public works at less than the prevailing wages paid in the localities. The
10 commissioner, in determining what rates of wages prevail, shall consider the
11 following criteria:

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

19 (b) Wage rates previously paid on reasonably comparable private construction
20 projects constructed in the localities. In considering the rates the
21 commissioner shall ascertain, insofar as practicable, the names and
22 addresses of the contractors, including subcontractors, the locations,
23 approximate costs, dates of construction and types of projects, the number
24 of workers employed on each project, and the respective wage rates paid
25 each worker who was engaged in the construction of these projects; and

26 (c) Collective bargaining agreements or understandings between organizations
27 of labor and their employers located in the Commonwealth and which

1 agreements apply or pertain to the localities in which the public works are
2 to be constructed.

3 (4) The wage rates to be used by the public authority in a contract for the
4 construction of public works shall be the prevailing wage as of the date the public
5 works project is advertised and offered for bid. If contracts are not awarded
6 within ninety (90) days after the date of offering for bid, the public authority shall
7 ascertain the prevailing rate of wages from the department before the contract is
8 awarded. The schedule or scale of prevailing wages shall be incorporated in and
9 made a part of each contract.

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

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

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

21 (2) The commissioner or the commissioner's authorized representative shall conduct
22 a public hearing for the purpose of making initial determinations or current
23 revisions of a prevailing wage schedule for the construction of public works
24 pertaining to a locality. The commissioner shall, within sixty (60) days of the
25 hearing, publish his or her wage determination. The hearing shall be conducted
26 in the locality after notice has been given as provided in subsection (4) of this
27 section. The commissioner shall not be required to utilize this section in any

1 locality where the United States Department of Labor has issued a prevailing
2 wage under the Davis-Bacon Act or related acts, in which case, the commissioner
3 may adopt the wage schedule and any modifications issued by the United States
4 Department of Labor and published in the Federal Register.

5 (3) (a) A public authority or any interested person may request and shall be
6 granted an additional hearing solely for the purpose of considering a review
7 of the commissioner's determination of the prevailing wage schedule for the
8 construction of public works in the locality. After notice has been given as
9 provided in subsection (4) of this section, the hearing shall be conducted in
10 the locality by a prevailing wage review board consisting of one (1) member
11 representing employers in the construction industry, one (1) member
12 representing labor in the construction industry, and one (1) member
13 appointed by the public authority requesting the hearing.

14 (b) The member appointed by the public authority shall reside in the locality in
15 which the public works are to be constructed. The members of the board
16 representing employers in the construction industry and labor in the
17 construction industry shall be appointed for periods of not more than four
18 (4) years by the Governor from a list of prospective members recommended
19 by associations representing the construction industry and labor
20 organizations representing workers employed in the construction industry,
21 and the members shall serve on the board for all hearings during their
22 tenure.

23 (c) Prevailing wage review boards may revise prevailing wage schedules for the
24 construction of public works, but the revisions shall be governed by the
25 same criteria and regulations governing wage determinations of the
26 commissioner. A revision of a prevailing wage schedule for the construction
27 of public works shall require a vote of a majority of the members. The

1 members of a prevailing wage review board shall receive their actual
2 necessary expenses incurred in carrying out their duties and the expenses
3 shall be paid out of the general fund of the Commonwealth.

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

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

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

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

20 (2) The public authority shall state in its advertisement, bid documents, and
21 contracts, that the prevailing wage rates contained in these documents are
22 presently being reviewed, are subject to change, and if modified or altered, that
23 the contractors shall be responsible for the payment of the wage rates finally
24 determined. If any rates are increased from those determined by the
25 commissioner, the contractor may recover from the public authority any
26 additional sums of money which the contractor may be required to pay as a result
27 of the wage modification or alteration. If any rates are decreased from that

1 determined by the commissioner, the public authority shall be barred from any
2 recovery of the difference previously earned by or paid to employees.

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

5 (1) Any person claiming to be aggrieved by any final determination of prevailing
6 wages by the prevailing wage review board may appeal to the Franklin Circuit
7 Court. The appeal shall state fully the grounds upon which an appeal is sought. A
8 copy of the appeal and summons shall be served upon the Department of
9 Workplace Standards and the members of the prevailing wage review board.
10 Within thirty (30) days after the service, or within further time if allowed by the
11 court, the department, on behalf of the prevailing wage review board, shall
12 submit to the court a certified copy of all matters considered by the prevailing
13 wage review board from which it made its final wage determination.

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

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

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

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

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

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

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

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

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

8 (1) Where a prevailing rate of wages has been determined and prescribed, the
9 contract executed between a public authority and the successful bidder or
10 contractor shall require the successful bidder and all of his or her subcontractors
11 to pay not less than the rate of wages established. The successful bidder or
12 contractor and all subcontractors shall strictly comply with these provisions of the
13 contract.

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

23 (b) All contractors and subcontractors affected by Sections 7 to 17 of this Act
24 shall keep full and accurate payroll records covering all disbursements of
25 wages to their employees to whom they are required to pay not less than the
26 prevailing rate of wages. These records shall indicate the hours worked
27 each day by each employee in each classification of work and the amount

1 paid each employee for his or her work in each classification. They shall be
2 open to the inspection and transcript of the commissioner or the
3 commissioner's authorized representative at any reasonable time, and shall
4 be in compliance with all administrative regulations issued by the
5 commissioner. These payroll records shall not be destroyed or removed from
6 this state for one (1) year following the completion of the improvement in
7 connection with which they are made.

8 (3) Each contractor and subcontractor subject to Sections 7 to 17 of this Act shall
9 keep posted in a conspicuous place or places at the site of the construction work a
10 copy or copies of prevailing rates of wages and working hours as prescribed in
11 the contract with the public authority, showing the rates of wages prescribed and
12 the working hours for each class of employees employed by him or her in
13 constructing the public works provided for in the contract with the public
14 authority.

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

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

21 (1) Every public authority, before advertising for bids, shall include with the
22 schedule of wages a provision that no employee shall be permitted to work more
23 than eight (8) hours in one (1) calendar day, which shall constitute a legal day's
24 work, nor more than forty (40) hours in one (1) week, which shall constitute a
25 legal workweek, except in cases of emergency caused by fire, flood, or damage to
26 life or property. This limitation of work hours shall be made a part of the
27 specifications for the work and printed on bid blanks where the work is done by

1 contract and shall be incorporated as a part of each contract. This shall not
2 prohibit any employee from working more than eight (8) hours in one (1)
3 calendar day, but not more than ten (10) hours in one (1) calendar day where the
4 employee and employer enter into an agreement in writing prior to the working of
5 any one (1) day in excess of eight (8) hours, or where provided for in a collective
6 bargaining agreement.

7 (2) No employee shall be permitted to work more than eight (8) hours in any one (1)
8 calendar day, nor more than forty (40) hours in any one (1) week, except in cases
9 of emergency caused by fire, flood, or damage to life or property, on the
10 construction of public works which are being constructed under contract with
11 any public authority. This shall not prohibit any employee from working more
12 than eight (8) hours in one (1) calendar day, but not more than ten (10) hours in
13 one (1) calendar day where the employee and employer enter into an agreement
14 in writing prior to the working of any one (1) day in excess of eight (8) hours, or
15 where provided for in a collective bargaining agreement.

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

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

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

3 *(1) If it is found that a public authority has not complied with Sections 7 to 17 of this*
4 *Act, the commissioner shall give notice of this noncompliance in writing to the*
5 *public authority. The commissioner may allow sufficient time for compliance.*
6 *After the expiration of the time prescribed in the notice, the department shall, at*
7 *the earliest possible time, bring suit in the Circuit Court of the county in which*
8 *the public body is located to enjoin the award of the contract for a public works*
9 *or to enjoin any further work or payments under a contract that has been*
10 *awarded until the requirements of the notice are complied with. The court may*
11 *issue a temporary restraining order without notice to the defendant in the action.*

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

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

22 *(1) Any employee employed on public works may file a complaint of any violation of*
23 *Sections 7 to 17 of this Act with the department. The department shall assist the*
24 *employee in the collection of claims of wages due him or her and shall also assist*
25 *to the fullest extent in the administration and enforcement of Sections 7 to 17 of*
26 *this Act. The commissioner shall investigate and enforce Sections 7 to 17 of this*
27 *Act to the fullest and shall bring all actions to collect wages due any employee*

1 and shall take action against any contractor or subcontractor to restrain
2 violations of Sections 7 to 17 of this Act. If any contractor or subcontractor is
3 found to be in violation of Sections 7 to 17 of this Act, then the commissioner
4 shall inform the secretary of finance and administration, and the secretary shall
5 hold the contractor or subcontractor ineligible to bid on public works until the
6 time as that contractor or subcontractor is in substantial compliance as
7 determined by the commissioner.

8 (2) An employee may by civil action recover any sum due him or her as the result of
9 the failure of the employee's employer to comply with the terms of Sections 7 to
10 17 of this Act. The commissioner may also bring any legal action necessary to
11 collect claims on behalf of any or all employees. No employer shall take any
12 punitive measure or action against an employee because the employee has made a
13 charge, testified, assisted, or participated in any manner in an investigation,
14 proceeding, or hearing under Sections 7 to 17 of this Act. The commissioner shall
15 not be required to pay the filing fee, or other costs, in connection with such an
16 action.