

1 AN ACT relating to counties and declaring an emergency.

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

3 ➔Section 1. KRS 337.285 is amended to read as follows:

- 4 (1) No employer shall employ any of his or her employees for a work week longer than
5 forty (40) hours, unless such employee receives compensation for his or her
6 employment in excess of forty (40) hours in a work week at a rate of not less than
7 one and one-half (1-1/2) times the hourly wage rate at which he or she is employed.
- 8 (2) This provision shall not apply to the following:
- 9 (a) Employees of retail stores engaged in work connected with selling,
10 purchasing, and distributing merchandise, wares, goods, articles, or
11 commodities;
- 12 (b) Employees of restaurant, hotel, and motel operations;
- 13 (c) Employees as defined and exempted from the overtime provision of the Fair
14 Labor Standards Act in Sections 213(b)(1), 213(b)(6), 213(b)(10), and
15 213(b)(17) of Title 29, U.S.C.;
- 16 (d) Employees whose function is to provide twenty-four (24) hour residential care
17 on the employer's premises in a parental role to children who are primarily
18 dependent, neglected, and abused and who are in the care of private nonprofit
19 childcaring facilities licensed by the Cabinet for Health and Family Services
20 under KRS 199.640 to 199.670; or
- 21 (e) Any individual who is employed by a third-party employer or agency other
22 than the family or household using his or her services to provide in-home
23 companionship services for a sick, convalescing, or elderly person.
- 24 (3) As used in subsection (2) of this section, "companionship services" means those
25 services which provide in-home fellowship, care, and protection for a person who,
26 because of advanced age or physical or mental infirmity, cannot care for his or her
27 own needs. These services may include household work related to the care of the

1 aged or infirm person such as meal preparation, bed making, washing of clothes,
2 and other similar services. They may also include the performance of general
3 household work, provided that the household work is incidental, i.e., does not
4 exceed twenty percent (20%) of the total weekly hours worked. The term
5 "companionship services" does not include services relating to the care and
6 protection of the aged or infirm which require and are performed by trained
7 personnel, such as a registered or practical nurse.

8 (4) Notwithstanding the provisions of subsection (1) of this section or any other chapter
9 of the KRS to the contrary, upon written request by a county or city employee or a
10 Trooper R Class or CVE R Class, made freely and without coercion, pressure, or
11 suggestion by the employer, and upon a written agreement reached between the
12 employer and the county or city employee or the Trooper R Class or CVE R Class
13 before the performance of the work, a county or city employee or a Trooper R Class
14 or CVE R Class who is authorized to work one (1) or more hours in excess of the
15 prescribed hours per week may be granted compensatory leave on an hour-for-hour
16 basis. Upon the written request by a county or city employee or a Trooper R Class
17 or CVE R Class, made freely and without coercion, pressure, or suggestion by the
18 employer, and upon a written agreement reached between the employer and the
19 county or city employee or the Trooper R Class or CVE R Class, before the
20 performance of the work, a county or city employee or a Trooper R Class or CVE R
21 Class who is not exempt from the provisions of the Federal Fair Labor Standards
22 Act of 1938, as amended, 29 U.S.C. secs. 201 et seq., may be granted compensatory
23 time in lieu of overtime pay, at the rate of not less than one and one-half (1-1/2)
24 hours for each hour the county or city employee or the Trooper R Class or CVE R
25 Class is authorized to work in excess of forty (40) hours in a work week.

26 (5) (a) Upon the request of the county or city employee or the Trooper R Class or
27 CVE R Class, and as provided in subsection (4) of this section, compensatory

1 time shall be awarded as follows:

2 1. A county or city employee who provided work in excess of forty (40)
3 hours in a public safety activity, an emergency response activity, or a
4 seasonal activity as described in 29 C.F.R. sec. 553.24, may accrue not
5 more than four hundred eighty (480) hours of compensatory time; or

6 2. A county or city employee or a Trooper R Class or CVE R Class
7 engaged in other work in excess of forty (40) hours, may accrue not
8 more than two hundred forty (240) hours of compensatory time.

9 (b) A county or city employee or a Trooper R Class or CVE R Class who has
10 accrued four hundred eighty (480) hours of compensatory time off pursuant to
11 paragraph (a)1. of this subsection, or two hundred forty (240) hours of
12 compensatory time off pursuant to paragraph (a)2. of this subsection, shall for
13 additional overtime hours of work, be paid overtime compensation.

14 (6) A county or city employee or a Trooper R Class or CVE R Class who has accrued
15 compensatory time off as provided in subsection (4) of this section, and who
16 requested the use of compensatory time, shall be permitted by the employer to use
17 the compensatory time within a reasonable period after making the request if the
18 use of the compensatory time does not unduly disrupt the operations of the
19 employer. Mere inconvenience to the employer shall not constitute a sufficient basis
20 for denial of a county or city employee's request or a Trooper R Class or CVE R
21 Class request for compensatory time off.

22 (7) If compensation is paid to a county or city employee or a Trooper R Class or CVE
23 R Class for accrued compensatory time off, the compensation shall be paid at the
24 regular rate earned by the county or city employee or the Trooper R Class or CVE
25 R Class at the time the county or city employee or the Trooper R Class or CVE R
26 Class receives the payment.

27 (8) Upon a county or city employee's termination of employment or the termination of

1 employment of a Trooper R Class or CVE R Class, all unused accrued
2 compensatory time shall be paid at a rate of compensation not less than:

3 (a) The average regular rate received by the county or city employee or the
4 Trooper R Class or CVE R Class during the last three (3) years of the
5 employment of the county or city employee or Trooper R Class or CVE R
6 Class; or

7 (b) The final regular rate received by the county or city employee or Trooper R
8 Class or CVE R Class, whichever is higher.

9 (9) Compensatory time shall not be used as a means to avoid statutory overtime
10 compensation. A county or city employee or a Trooper R Class or CVE R Class
11 shall have the right to use compensatory time earned and shall not be coerced to
12 accept more compensatory time than an employer can realistically and in good faith
13 expect to be able to grant within a reasonable period upon the county or city
14 employee or the Trooper R Class or CVE R Class making the request for
15 compensatory time off.

16 (10) Nothing in subsections (4) to (9) of this section shall be construed to supersede any
17 collective bargaining agreement, memorandum of understanding, or any other
18 agreement between the employer and representative of the county or city employees
19 or the Trooper R Class or CVE R Class.

20 (11) As used in subsections (4) to (9) of this section:

21 (a) "County or city employee" means an employee of any county, city, charter
22 county, consolidated local government, unified local government, or urban-
23 county government, including an employee of a county or city elected official;

24 (b) "CVE R Class" has the same meaning as in KRS 16.010; and

25 (c) "Trooper R Class" has the same meaning as in KRS 16.010.

26 (12) In addition to the designation of a work week under subsection (1) of this section,
27 local governments, as defined in KRS 95A.210(5), may designate a work period for

1 professional firefighter employees as defined in KRS 95A.210. The designated
 2 work period shall be not less than one (1) work week of seven (7) consecutive days
 3 and not more than four (4) work weeks of twenty-eight (28) consecutive days for
 4 purposes of complying with the requirements of the Federal Labor Standards Act of
 5 1938, as amended, 29 U.S.C. secs. 201 et seq. This subsection shall not exempt
 6 local governments from complying with the overtime requirements set forth in
 7 subsection (1) of this section and is intended to:

8 (a) Clarify the option to designate both a work week for compliance with
 9 Kentucky law and a work period for compliance with the Fair Labor
 10 Standards Act of 1938, as amended, 29 U.S.C. secs. 201 et seq.; and

11 (b) Allow for the application of the partial exemption set forth in 29 U.S.C. sec.
 12 207(k) in determining overtime pay under the Fair Labor Standards Act of
 13 1938, as amended, 29 U.S.C. secs. 201 et seq., only.

14 (13) (a) A law enforcement department of a consolidated local government organized
 15 under KRS Chapter 67C, ~~or~~ a city of the home rule class, **or a sheriff's**
 16 **office or county police force**, shall not be deemed to have violated subsection
 17 (1) of this section with respect to the employment of a peace officer if:

18 1. The officer works eighty (80) hours or less in a work period of fourteen
 19 (14) consecutive days; and

20 2. a. For a law enforcement department of a consolidated local
 21 government **operating under KRS 67C.408, and** organized under
 22 KRS Chapter 67C, the law enforcement department and **any other**
 23 **entity working with the law enforcement department** ~~or~~
 24 ~~representative of a collective bargaining unit certified under KRS~~
 25 ~~67C.408~~ that includes the officer agree to the exception; ~~or~~

26 b. For a law enforcement department of a city of the home rule class,
 27 the law enforcement department and **any other entity working**

1 with the law enforcement department~~[a representative of a~~
 2 ~~collective bargaining unit recognized by the city to collectively~~
 3 ~~bargain for the officer, if there is a collective bargaining unit,]~~
 4 agree to the exception. If there is no other entity working with the
 5 law enforcement department or~~[collective bargaining unit~~
 6 ~~representing]~~ the officer in a city of the home rule class, only the
 7 requirement in subparagraph 1. of this paragraph shall be met;

8 c. For a sheriff's office operating under KRS 70.262, the sheriff's
 9 office and any other entity working with the sheriff's office agree
 10 to the exception. If the sheriff's office does not operate under
 11 KRS 70.262, only the requirement in subparagraph 1. of this
 12 paragraph shall be met; or

13 d. For a county police force operating under KRS 67A.6902, the
 14 county police force and any other entity working with the county
 15 police force agree to the exception. If the county police force
 16 does not operate under KRS 67A.6902, only the requirement in
 17 subparagraph 1. of this paragraph shall be met.

- 18 (b) It is the intent of this subsection to allow the employment of a peace officer
 19 for longer than forty (40) hours in any seven (7) consecutive days within a
 20 fourteen (14) day work period without incurring the obligation to pay a rate of
 21 not less than one and one-half (1-1/2) times the officer's hourly wage under
 22 subsection (1) of this section.

23 ➔Section 2. Whereas recruiting and retaining qualified law enforcement officers
 24 to sheriff's offices and county police forces is crucial to the safety and well-being of the
 25 citizens of the Commonwealth, an emergency is declared to exist, and this Act takes
 26 effect upon its passage and approval by the Governor or upon its otherwise becoming a
 27 law.