

1 AN ACT relating to prevailing wage.

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

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

5 *For the purpose of Sections 1 to 11 of this Act, the term "prevailing wage" for each*
6 *classification of employees engaged in the construction of public works within the*
7 *Commonwealth of Kentucky, means the sum of:*

8 *(1) The basic hourly rate paid or being paid subsequent to the commissioner's most*
9 *recent wage determination to the majority of employees in each classification of*
10 *construction upon reasonably comparable construction in the locality where the*
11 *work is to be performed. This rate shall be determined by the commissioner in*
12 *accordance with subsection (3) of Section 4 of this Act. If there is not a majority*
13 *paid at the same rate, then the basic hourly rate of pay shall be the average basic*
14 *hourly rate which shall be determined by adding the basic hourly rates paid to all*
15 *workers in the classification and dividing by the total number of these workers;*
16 *and*

17 *(2) An additional amount per hour equal to the hourly rate of contribution*
18 *irrevocably made or to be made by an employer on behalf of employees within*
19 *each classification of construction to a trustee or to a third person pursuant to an*
20 *enforceable commitment to carry out a financially responsible plan or program.*
21 *This commitment shall be communicated in writing to the employees affected, for*
22 *the following fringe benefits: medical or hospital care, pensions upon retirement,*
23 *death compensation for injuries or illness resulting from occupational activity or*
24 *insurance to provide unemployment benefits, life insurance, disability and*
25 *sickness insurance, accident insurance, vacation and holiday pay, defraying costs*
26 *of apprenticeship or other similar programs, or other bona fide fringe benefits,*
27 *but only where the employer is not required by other federal, state*

1 or local law to provide any of these benefits. This additional amount may, at the
2 discretion of the employer, be paid either in cash to the employee or by contributions
3 for fringe benefits, or partly in cash and partly by these contributions. It is the
4 intention of this subsection to recognize fringe benefits as a part of the prevailing wage
5 rate made in accordance with this subsection.

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

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

18 (2) The public authority advertising and awarding the contract shall cause to be
19 inserted in the proposal and contract a stipulation that not less than the
20 prevailing hourly rate of wages as determined by the commissioner shall be paid
21 to all employees performing work under the contract. It shall also require in all
22 the contractor's bonds that the contractor include provisions that will guarantee
23 the faithful performance of the prevailing hourly wage clause as provided by
24 contract. The public authority awarding the contract, and its agents and officers,
25 shall take notice of all complaints of violations of Sections 1 to 11 of this Act
26 committed in the course of the execution of the contract, and when making
27 payments to the contractor becoming due under the contract, to withhold and

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

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

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

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

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

21 (1) The commissioner shall make initial determinations and current revisions of
22 schedules of rates of prevailing wages, the amount of fringe benefits included as
23 described in Section 1 of this Act, and the number of hours applicable. The
24 commissioner may promulgate administrative regulations pursuant to KRS
25 Chapter 13A to implement Sections 1 to 11 of this Act. The administrative
26 regulations shall not require each contractor and subcontractor furnish a sworn
27 affidavit with respect to the wages paid each employee.

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

5 (3) The commissioner may determine schedules and current revisions of the rates of
6 prevailing wages as defined in Section 1 of this Act, but shall not determine
7 wages to be paid for a legal day's work to employees engaged in the construction
8 of public works at less than the prevailing wages paid in the localities. The
9 commissioner, in determining what rates of wages prevail, shall consider the
10 following criteria:

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

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

25 (c) Collective bargaining agreements or understandings between organizations
26 of labor and their employers located in the Commonwealth and which
27 agreements apply or pertain to the localities in which the public works are

1 to be constructed.

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

9 (5) The commissioner may promulgate administrative regulations pursuant to KRS
10 Chapter 13A authorizing the employment of apprentices and trainees in skilled
11 trades at wages lower than the applicable prevailing wage.

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

14 (1) If the federal government or any of its agencies furnishes by loans or grants any
15 part of the funds used in constructing public works, and if the federal
16 government or its agencies prescribe predetermined prevailing minimum wages to
17 be paid to employees employed in the construction of the public works, and if
18 Sections 1 to 11 of this Act is also applicable, those wages in each classification
19 which are higher shall prevail.

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

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

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

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

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

1 necessary expenses incurred in carrying out their duties and the expenses
2 shall be paid out of the general fund of the Commonwealth.

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

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

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

13 (1) If a review of the commissioner's determination is requested pursuant to
14 subsection (3) of Section 5 of this Act, the wage rates to be used by the public
15 authority in a contract for the construction of public works advertised during the
16 pendency of the proceedings provided in subsection (2) of Section 5 of this Act, or
17 on appeal pursuant to Section 7 of this Act, shall be the latest rate determined by
18 the commissioner and which is being reviewed.

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

1 previously earned by or paid to employees.

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

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

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

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

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

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

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

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

27 (3) The Franklin Circuit Court shall enter an order affirming or setting aside the

1 prevailing wage review board's wage determination. The court may also remand
2 the case to the prevailing wage review board for further proceedings.

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

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

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

13 (2) (a) All contractors and subcontractors required by Sections 1 to 11 of this Act
14 and by contracts with any public authority to pay not less than the
15 prevailing rate of wages shall pay these wages in legal tender without any
16 deductions. These provisions shall not apply where the employer and
17 employee enter into an agreement in writing at the beginning of or during
18 any term of employment covering deductions for food, sleeping
19 accommodations, or any similar item, if this agreement is submitted by the
20 employer to the department and is approved by the department as fair and
21 reasonable.

22 (b) All contractors and subcontractors affected by Sections 1 to 11 of this Act
23 shall keep full and accurate payroll records covering all disbursements of
24 wages to their employees to whom they are required to pay not less than the
25 prevailing rate of wages. These records shall indicate the hours worked
26 each day by each employee in each classification of work and the amount
27 paid each employee for his or her work in each classification. They shall be

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

7 (3) Each contractor and subcontractor subject to Sections 1 to 11 of this Act shall
8 keep posted in a conspicuous place or places at the site of the construction work a
9 copy or copies of prevailing rates of wages and working hours as prescribed in
10 the contract with the public authority, showing the rates of wages prescribed and
11 the working hours for each class of employees employed by him or her in
12 constructing the public works provided for in the contract with the public
13 authority.

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

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

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

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

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

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

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

24 (1) If it is found that a public authority has not complied with Sections 1 to 11 of this
25 Act, the commissioner shall give notice of this noncompliance in writing to the
26 public authority. The commissioner may allow sufficient time for compliance.
27 After the expiration of the time prescribed in the notice, the department shall, at

1 the earliest possible time, bring suit in the Circuit Court of the county in which
2 the public body is located to enjoin the award of the contract for a public works
3 or to enjoin any further work or payments under a contract that has been
4 awarded until the requirements of the notice are complied with. The court may
5 issue a temporary restraining order without notice to the defendant in the action.

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

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

16 (1) Any employee employed on public works may file a complaint of any violation of
17 Sections 1 to 11 of this Act with the department. The department shall assist the
18 employee in the collection of claims of wages due him or her and shall also assist
19 to the fullest extent in the administration and enforcement of Sections 1 to 11 of
20 this Act. The commissioner shall investigate and enforce Sections 1 to 11 of this
21 Act to the fullest and shall bring all actions to collect wages due any employee
22 and shall take action against any contractor or subcontractor to restrain
23 violations of Sections 1 to 11 of this Act. If any contractor or subcontractor is
24 found to be in violation of Sections 1 to 11 of this Act, then the commissioner
25 shall inform the secretary of the Finance and Administration Cabinet, and the
26 secretary shall hold the contractor or subcontractor ineligible to bid on public
27 works until the time as that contractor or subcontractor is in substantial

1 compliance as determined by the commissioner.

2 (2) An employee may by civil action recover any sum due him or her as the result of
3 the failure of the employee's employer to comply with the terms of Sections 1 to
4 11 of this Act. The commissioner may also bring any legal action necessary to
5 collect claims on behalf of any or all employees. An employer shall not take any
6 punitive measure or action against an employee because the employee has made a
7 charge, testified, assisted, or participated in any manner in an investigation,
8 proceeding, or hearing under Sections 1 to 11 of this Act. The commissioner shall
9 not be required to pay the filing fee, or other costs, in connection with such an
10 action.

11 ➔Section 12. KRS 12.020 is amended to read as follows:

12 Departments, program cabinets and their departments, and the respective major
13 administrative bodies that they include are enumerated in this section. It is not intended
14 that this enumeration of administrative bodies be all-inclusive. Every authority, board,
15 bureau, interstate compact, commission, committee, conference, council, office, or any
16 other form of organization shall be included in or attached to the department or program
17 cabinet in which they are included or to which they are attached by statute or statutorily
18 authorized executive order; except in the case of the Personnel Board and where the
19 attached department or administrative body is headed by a constitutionally elected
20 officer, the attachment shall be solely for the purpose of dissemination of information and
21 coordination of activities and shall not include any authority over the functions,
22 personnel, funds, equipment, facilities, or records of the department or administrative
23 body.

24 I. Cabinet for General Government - Departments headed by elected officers:

- 25 (1) The Governor.
26 (2) Lieutenant Governor.
27 (3) Department of State.

- 1 (a) Secretary of State.
- 2 (b) Board of Elections.
- 3 (c) Registry of Election Finance.
- 4 (4) Department of Law.
- 5 (a) Attorney General.
- 6 (5) Department of the Treasury.
- 7 (a) Treasurer.
- 8 (6) Department of Agriculture.
- 9 (a) Commissioner of Agriculture.
- 10 (b) Agricultural Development Board.
- 11 (c) Kentucky Agricultural Finance Corporation.
- 12 (7) Auditor of Public Accounts.
- 13 (a) Commonwealth Office of the Ombudsman.
- 14 II. Program cabinets headed by appointed officers:
- 15 (1) Justice and Public Safety Cabinet:
- 16 (a) Department of Kentucky State Police.
- 17 1. Office of Administrative Services.
- 18 a. Division of Operational Support.
- 19 b. Division of Management Services.
- 20 2. Office of Operations.
- 21 a. Division of West Troops.
- 22 b. Division of East Troops.
- 23 c. Division of Special Enforcement.
- 24 d. Division of Commercial Vehicle Enforcement.
- 25 3. Office of Technical Services.
- 26 a. Division of Forensic Sciences.
- 27 b. Division of Electronic Services.

- 1 c. Division of Records Management.
- 2 (b) Department of Criminal Justice Training.
- 3 (c) Department of Corrections.
- 4 (d) Department of Juvenile Justice.
- 5 (e) Office of the Secretary.
- 6 (f) Office of Drug Control Policy.
- 7 (g) Office of Legal Services.
- 8 (h) Office of the Kentucky State Medical Examiner.
- 9 (i) Parole Board.
- 10 (j) Kentucky State Corrections Commission.
- 11 (k) Office of Legislative and Intergovernmental Services.
- 12 (l) Office of Human Resource Management.
- 13 1. Division of Human Resource Administration.
- 14 2. Division of Employee Management.
- 15 (m) Department of Public Advocacy.
- 16 (n) Office of Communications.
- 17 1. Information Technology Services Division.
- 18 (o) Office of Financial Management Services.
- 19 1. Division of Financial Management.
- 20 (p) Grants Management Division.
- 21 (2) Energy and Environment Cabinet:
- 22 (a) Office of the Secretary.
- 23 1. Office of Legislative and Intergovernmental Affairs.
- 24 2. Office of Legal Services.
- 25 a. Legal Division I.
- 26 b. Legal Division II.
- 27 3. Office of Administrative Hearings.

- 1 4. Office of Communication.
- 2 5. Mine Safety Review Commission.
- 3 6. Office of Kentucky Nature Preserves.
- 4 7. Kentucky Public Service Commission.
- 5 (b) Department for Environmental Protection.
- 6 1. Office of the Commissioner.
- 7 2. Division for Air Quality.
- 8 3. Division of Water.
- 9 4. Division of Environmental Program Support.
- 10 5. Division of Waste Management.
- 11 6. Division of Enforcement.
- 12 7. Division of Compliance Assistance.
- 13 (c) Department for Natural Resources.
- 14 1. Office of the Commissioner.
- 15 2. Division of Mine Permits.
- 16 3. Division of Mine Reclamation and Enforcement.
- 17 4. Division of Abandoned Mine Lands.
- 18 5. Division of Oil and Gas.
- 19 6. Division of Mine Safety.
- 20 7. Division of Forestry.
- 21 8. Division of Conservation.
- 22 9. Office of the Reclamation Guaranty Fund.
- 23 (d) Office of Energy Policy.
- 24 1. Division of Energy Assistance.
- 25 (e) Office of Administrative Services.
- 26 1. Division of Human Resources Management.
- 27 2. Division of Financial Management.

- 1 3. Division of Information Services.
- 2 (3) Public Protection Cabinet.
- 3 (a) Office of the Secretary.
- 4 1. Office of Communications and Public Outreach.
- 5 2. Office of Legal Services.
- 6 a. Insurance Legal Division.
- 7 b. Alcoholic Beverage Control Legal Division.
- 8 c. Housing, Buildings and Construction Legal Division.
- 9 d. Financial Institutions Legal Division.
- 10 e. Professional Licensing Legal Division.
- 11 3. Office of Administrative Hearings.
- 12 4. Office of Administrative Services.
- 13 a. Division of Human Resources.
- 14 b. Division of Fiscal Responsibility.
- 15 (b) Office of Claims and Appeals.
- 16 1. Board of Tax Appeals.
- 17 2. Board of Claims.
- 18 3. Crime Victims Compensation Board.
- 19 (c) Kentucky Boxing and Wrestling Commission.
- 20 (d) Department of Alcoholic Beverage Control.
- 21 1. Division of Distilled Spirits.
- 22 2. Division of Malt Beverages.
- 23 3. Division of Enforcement.
- 24 4. Division of Tobacco, Nicotine, and Vapor Product Licensing.
- 25 (e) Department of Financial Institutions.
- 26 1. Division of Depository Institutions.
- 27 2. Division of Non-Depository Institutions.

- 1 3. Division of Securities.
- 2 (f) Department of Housing, Buildings and Construction.
- 3 1. Division of Fire Prevention.
- 4 2. Division of Plumbing.
- 5 3. Division of Heating, Ventilation, and Air Conditioning.
- 6 4. Division of Building Code Enforcement.
- 7 (g) Department of Insurance.
- 8 1. Division of Health and Life Insurance and Managed Care.
- 9 2. Division of Property and Casualty Insurance.
- 10 3. Division of Administrative Services.
- 11 4. Division of Financial Standards and Examination.
- 12 5. Division of Licensing.
- 13 6. Division of Insurance Fraud Investigation.
- 14 7. Division of Consumer Protection.
- 15 (h) Department of Professional Licensing.
- 16 1. Real Estate Authority.
- 17 2. Division of Real Property Boards.
- 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 and Community Development.
- 18 a. Development and Retention Division – West Kentucky.
- 19 b. Development, Retention, and Administrative Division –
- 20 Central and East Kentucky.
- 21 c. Community and Workforce Development Division.
- 22 3. Department for Financial Services.
- 23 a. Kentucky Economic Development Finance Authority.
- 24 b. Finance and Personnel Division.
- 25 c. IT and Resource Management Division.
- 26 d. Compliance Division.
- 27 e. Program Administration Division.

- 1 f. Bluegrass State Skills Corporation.
- 2 g. The GRANT Commission.
- 3 4. Office of Strategy and Public Affairs.
- 4 a. Marketing and Communications Division.
- 5 b. Research and Strategy Division.
- 6 5. Office of Entrepreneurship and Innovation.
- 7 a. Commission on Small Business Innovation and Advocacy.
- 8 6. Kentucky Film Office.
- 9 a. Kentucky Film Leadership Council.
- 10 (6) Cabinet for Health and Family Services:
- 11 (a) Office of the Secretary.
- 12 1. Office of Public Affairs.
- 13 2. Office of Legal Services.
- 14 3. Office of Inspector General.
- 15 4. Office of Human Resource Management.
- 16 5. Office of Finance and Budget.
- 17 6. Office of Legislative and Regulatory Affairs.
- 18 7. Office of Administrative Services.
- 19 8. Office of Application Technology Services.
- 20 9. Office of Data Analytics.
- 21 10. Office of Medical Cannabis.
- 22 a. Division of Enforcement and Compliance.
- 23 b. Division of Licensure and Access.
- 24 (b) Department for Public Health.
- 25 (c) Department for Medicaid Services.
- 26 (d) Department for Behavioral Health, Developmental and Intellectual
- 27 Disabilities.

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

- 1 (x) Office of Fleet Management.
- 2 (8) Tourism, Arts and Heritage Cabinet:
- 3 (a) Kentucky Department of Tourism.
- 4 1. Division of Tourism Services.
- 5 2. Division of Marketing and Administration.
- 6 3. Division of Communications and Promotions.
- 7 (b) Kentucky Department of Parks.
- 8 1. Division of Information Technology.
- 9 2. Division of Human Resources.
- 10 3. Division of Financial Operations.
- 11 4. Division of Purchasing.
- 12 5. Division of Facilities.
- 13 6. Division of Park Operations.
- 14 7. Division of Sales, Marketing, and Customer Service.
- 15 8. Division of Engagement.
- 16 9. Division of Food Services.
- 17 10. Division of Rangers.
- 18 (c) Department of Fish and Wildlife Resources.
- 19 1. Division of Law Enforcement.
- 20 2. Division of Administrative Services.
- 21 3. Division of Engineering, Infrastructure, and Technology.
- 22 4. Division of Fisheries.
- 23 5. Division of Information and Education.
- 24 6. Division of Wildlife.
- 25 7. Division of Marketing.
- 26 (d) Kentucky Horse Park.
- 27 1. Division of Support Services.

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

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

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

1. Career Development Office.
2. Office of Vocational Rehabilitation.
 - a. Division of Kentucky Business Enterprise.
 - b. Division of the Carl D. Perkins Vocational Training Center.
 - c. Division of Blind Services.
 - d. Division of Field Services.
 - e. Statewide Council for Vocational Rehabilitation.
 - f. Employment First Council.
 - g. Division of Program Policy and Support.
3. Office of Industry and Apprenticeship Services.
 - a. Division of Apprenticeship.
 - b. Division of Workforce Talent.
4. Kentucky Apprenticeship Council.
5. Division of Technical Assistance.
6. Office of Adult Education.
7. Office of the Kentucky Workforce Innovation Board.
- (i) Department of Workplace Standards.
 1. Division of Occupational Safety and Health Compliance.
 2. Division of Occupational Safety and Health Education and Training.
 3. Division of Wages and Hours.
- (j) Office of Unemployment Insurance.
- (k) Kentucky Unemployment Insurance Commission.
- (l) Department of Workers' Claims.
 1. Division of Workers' Compensation Funds.
 2. Office of Administrative Law Judges.
 3. Division of Claims Processing.

- 1 4. Division of Security and Compliance.
- 2 5. Division of Specialist and Medical Services.
- 3 6. Workers' Compensation Board.
- 4 (m) Workers' Compensation Funding Commission.
- 5 (n) Kentucky Occupational Safety and Health Standards Board.
- 6 (o) State Labor Relations Board.
- 7 (p) Employers' Mutual Insurance Authority.
- 8 (q) Kentucky Occupational Safety and Health Review Commission.
- 9 (r) Workers' Compensation Nominating Committee.
- 10 (s) Office of Educational Programs.
- 11 (t) Kentucky Workforce Innovation Board.
- 12 (u) Kentucky Commission on Proprietary Education.
- 13 (v) Kentucky Work Ready Skills Advisory Committee.
- 14 (w) Kentucky Geographic Education Board.
- 15 (x) Department for Disability Determination Services.
- 16 1. Division of Operations.
- 17 2. Division of Support Services.
- 18 3. Division of Specialized Cases.
- 19 4. Division of Case Processing.

20 **(y) Prevailing Wage Review Board.**

21 III. Other departments headed by appointed officers:

- 22 (1) Council on Postsecondary Education.
- 23 (2) Department of Military Affairs.
- 24 (3) Department for Local Government.
- 25 (4) Kentucky Commission on Human Rights.
- 26 (5) Kentucky Commission on Women.
- 27 (6) Department of Veterans' Affairs.

- 1 (7) Kentucky Commission on Military Affairs.
- 2 (8) Office of Minority Empowerment.
- 3 (9) Governor's Council on Wellness and Physical Activity.
- 4 (10) Kentucky Communications Network Authority.

5 ➔Section 13. KRS 99.480 is amended to read as follows:

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

11 **(2) The agency shall also attach to and make a part of the specifications for a**
12 **contract for the work, a schedule of prevailing wages, and shall comply with**
13 **Sections 1 to 11 and 17 of this Act.**

14 ➔Section 14. KRS 227.487 is amended to read as follows:

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

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

- 23 (a) The address of the dwelling inspected;
- 24 (b) The number of rooms, number of receptacles and number of switch boxes
25 inspected;
- 26 (c) Number of code violations, if any;
- 27 (d) A description of each code violation, and recommended change to correct the

- 1 violation;
- 2 (e) The date and time of day the inspection commenced;
- 3 (f) The time, in hours and minutes, required for the inspection;
- 4 (g) The number of miles and hours and minutes of travel time incurred by the
- 5 inspector for that inspection, if mileage and travel charges are added to the
- 6 inspection fee; and
- 7 (h) The amount charged for the inspection, separated into an amount for mileage,
- 8 if any, and the amount for travel time, if any, and the amount charged for the
- 9 actual inspection.
- 10 (2) The maximum inspection fee shall be an amount equal to the prevailing wage paid
- 11 to ~~a majority of~~ master electricians in the region in which the inspection is made,
- 12 multiplied by the time required to conduct the inspection. This rate shall not be
- 13 applied to travel time to and from the inspection.
- 14 (3) An inspector may charge, in addition to the inspection fee, an amount for necessary
- 15 travel to and from the inspection site. The mileage rate charged shall not exceed the
- 16 amount per mile allowed to state employees, and the inspector shall charge no more
- 17 than ten dollars (\$10) per hour for travel time. If two (2) or more inspections are
- 18 made during one (1) trip, then the cost of travel shall be divided between the
- 19 inspections made. In no case shall an inspector charge more than once for the same
- 20 trip, or charge for mileage or time not actually expended.
- 21 (4) Each inspector shall furnish bond of five thousand dollars (\$5,000) with surety
- 22 satisfactory to the department.
- 23 (5) The department shall design reporting forms which meet the requirements of
- 24 subsection (1) of this section, and provide these forms to electrical inspectors. The
- 25 department shall promulgate administrative regulations to administer the
- 26 requirements of this section.
- 27 (6) Nothing in this section is intended to limit the right of cities or counties to set fees

1 or adopt rules for electrical inspections which are different from those specified in
2 subsection (1), (2), (3), or (4) of this section.

3 ➔Section 15. KRS 151B.015 is amended to read as follows:

4 (1) The Education and Labor Cabinet is hereby created, which shall constitute a cabinet
5 of the state government within the meaning of KRS Chapter 12. The cabinet shall
6 consist of a secretary and those administrative bodies and employees as provided by
7 law.

8 (2) Subject to KRS Chapter 12, the cabinet shall be composed of the major
9 organizational units listed below, units listed in KRS 12.020, and other
10 departments, divisions, and sections as are from time to time deemed necessary for
11 the proper and efficient operation of the cabinet:

12 (a) Office of the Secretary, which shall include the Office of Legal Services, the
13 Office of Administrative Services, the Office of Technology Services, the
14 Office of Policy and Audit, the Office of Legislative Services, the Office of
15 Communications, and the Office of Kentucky Center for Statistics, as follows:

16 1. The Office of Legal Services shall:

17 a. Be headed by an executive director appointed by the secretary with
18 the approval of the Governor in accordance with KRS 12.050 and
19 12.210; and

20 b. Include the Workplace Standards Legal Division, Workforce
21 Development Legal Division, and Workers' Claims Legal
22 Division, each of which shall be headed by a general counsel
23 appointed by the secretary with the approval of the Governor in
24 accordance with KRS 12.050 and 12.210; and

25 2. The following agencies and entities are attached to the Office of the
26 Secretary for administrative purposes only:

27 a. Early Childhood Advisory Council;

- 1 b. Governor's School for Entrepreneurs Program;
- 2 c. Governor's Scholar Program;
- 3 d. Board of the Kentucky Center for Statistics; and
- 4 e. Foundation for Adult Education;
- 5 (b) Department of Workers' Claims, which shall be headed by a commissioner
- 6 appointed by the Governor and confirmed by the Senate in accordance with
- 7 KRS 342.228. The department shall be divided for administrative purposes
- 8 into the Office of Administrative Law Judges, the Division of Claims
- 9 Processing, the Division of Security and Compliance, the Division of
- 10 Workers' Compensation Funds, and the Division of Specialist and Medical
- 11 Services. The Office of Administrative Law Judges shall be headed by a chief
- 12 administrative law judge appointed in accordance with KRS 342.230. Each
- 13 division in the department shall be headed by a director appointed by the
- 14 secretary with the approval of the Governor in accordance with KRS 12.050.
- 15 The Workers' Compensation Board shall be attached to the Department of
- 16 Workers' Claims for administrative purposes only;
- 17 (c) Department of Workplace Standards, which shall be headed by a
- 18 commissioner appointed by the Governor in accordance with KRS 12.040 and
- 19 shall be divided for administrative purposes into the Division of Occupational
- 20 Safety and Health Compliance, the Division of Occupational Safety and
- 21 Health Education and Training, and the Division of Wages and Hours. Each
- 22 of these divisions shall be headed by a director appointed by the secretary
- 23 with the approval of the Governor in accordance with KRS 12.050;
- 24 (d) Office of Unemployment Insurance, which shall be headed by an executive
- 25 director appointed by the Governor in accordance with KRS 12.040;
- 26 (e) Kentucky Unemployment Insurance Commission;
- 27 (f) Department for Libraries and Archives;

- 1 (g) Office of Educational Programs;
- 2 (h) Kentucky Workforce Innovation Board;
- 3 (i) Department for Disability Determination Services, which shall include the:
- 4 1. Division of Operations;
- 5 2. Division of Support Services;
- 6 3. Division of Specialized Cases; and
- 7 4. Division of Case Processing; and
- 8 (j) Department of Workforce Development, which shall be headed by a
- 9 commissioner appointed by the Governor in accordance with KRS 12.040
- 10 who shall report to the secretary. Each office or division in the department
- 11 shall be headed by an executive director or division director appointed by the
- 12 secretary with the approval of the Governor in accordance with KRS 12.050.
- 13 The department shall be composed of the following offices:
- 14 1. Career Development Office;
- 15 2. Office of Vocational Rehabilitation, which shall include the Division of
- 16 Program Policy and Support. The division director shall report to the
- 17 executive director for the Office of Vocational Rehabilitation;
- 18 3. Office of Industry and Apprenticeship Services, which shall include the
- 19 Division of Apprenticeship and the Division of Workforce Talent. The
- 20 division directors shall report to the executive director of the Office of
- 21 Industry and Apprenticeship Services;
- 22 4. Office of Adult Education;
- 23 5. Kentucky Apprenticeship Council, which shall be attached to the
- 24 department for administrative purposes only;
- 25 6. Division of Technical Assistance; and
- 26 7. Office of the Kentucky Workforce Innovation Board.
- 27 (3) The following agencies are attached to the cabinet for administrative purposes only:

- 1 (a) Kentucky Occupational Safety and Health Review Commission;
- 2 (b) State Labor Relations Board;
- 3 (c) Workers' Compensation Funding Commission;
- 4 (d) Kentucky Occupational Safety and Health Standards Board;
- 5 (e) Kentucky Environmental Education Council;
- 6 (f) Kentucky Geographic Education Board;
- 7 (g) Board of Directors for the Center for School Safety;
- 8 (h) Kentucky Commission on Proprietary Education;
- 9 (i) Employers' Mutual Insurance Authority;
- 10 (j) Workers' Compensation Nominating Committee;
- 11 (k) Kentucky Commission on the Deaf and Hard of Hearing;
- 12 (l) Kentucky Educational Television;
- 13 (m) Kentucky Work Ready Skills Advisory Committee;~~and~~
- 14 (n) Foundation for Adult Education;and
- 15 (o) **Prevailing Wage Review Board.**

16 ➔Section 16. KRS 337.010 is amended to read as follows:

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

- 18 (a) "Commissioner" means the commissioner of the Department of Workplace
19 Standards under the direction and supervision of the secretary of the
20 Education and Labor Cabinet;
- 21 (b) "Department" means the Department of Workplace Standards in the
22 Education and Labor Cabinet;
- 23 (c) 1. "Wages" includes any compensation due to an employee by reason of
24 his or her employment, including salaries, commissions, vested vacation
25 pay, overtime pay, severance or dismissal pay, earned bonuses, and any
26 other similar advantages agreed upon by the employer and the employee
27 or provided to employees as an established policy. The wages shall be

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

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

- 17 (d) "Employer" is any person, either individual, corporation, partnership, agency,
18 or firm who employs an employee and includes any person, either individual,
19 corporation, partnership, agency, or firm acting directly or indirectly in the
20 interest of an employer in relation to an employee; and

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

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

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

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

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

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

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

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

- 1 12. Any individual whose function is to provide twenty-four (24) hour
2 residential care in his or her own home as a family caregiver, family
3 home provider, or adult foster care provider and who is approved to
4 provide family caregiver services to an adult with a disability through a
5 contractual relationship with a community board for mental health or
6 individuals with an intellectual disability established under KRS
7 210.370 to 210.460 or through a contractual relationship with a certified
8 waiver provider as defined in 907 KAR 7:005 sec. 1(5), or is certified or
9 licensed by the Cabinet for Health and Family Services to provide adult
10 foster care;
- 11 13. A direct seller as defined in Section 3508(b)(2) of the Internal Revenue
12 Code of 1986;
- 13 14. Any individual whose function is to provide behavior support services,
14 behavior programming services, case management services, community
15 living support services, positive behavior support services, or respite
16 services through a contractual relationship with a certified waiver
17 provider, as defined in 907 KAR 7:005 sec. 1(5), pursuant to a 1915(c)
18 home and community based services waiver program, as defined in 907
19 KAR 7:005 sec. 1(2); or
- 20 15. Any individual employed to play baseball who is compensated pursuant
21 to the terms of a contract and a collective bargaining agreement that
22 expressly provides for wages and working conditions;
- 23 (b) "Agriculture" means farming in all its branches, including cultivation and
24 tillage of the soil; dairying; production, cultivation, growing, and harvesting
25 of any agricultural or horticultural commodity; raising of livestock, bees,
26 furbearing animals, or poultry; and any practice, including any forestry or
27 lumbering operations, performed on a farm in conjunction with farming

- 1 operations, including preparation and delivery of produce to storage, to
2 market, or to carriers for transportation to market;
- 3 (c) "Gratuity" means voluntary monetary contribution received by an employee
4 from a guest, patron, or customer for services rendered;
- 5 (d) "Tipped employee" means any employee engaged in an occupation in which
6 he or she customarily and regularly receives more than thirty dollars (\$30) per
7 month in tips; and
- 8 (e) "U.S.C." means the United States Code.

9 **(3) As used in Sections 1 to 11 of this Act, unless the context requires otherwise:**

- 10 **(a) "Construction" includes construction, reconstruction, improvement,**
11 **enlargement, alteration, or repair of any public works project by contract**
12 **fairly estimated to cost more than two hundred fifty thousand dollars**
13 **(\$250,000). No public works project, if procured under a single contract,**
14 **may be divided into multiple contracts of lesser value to avoid compliance**
15 **with this section;**
- 16 **(b) "Contractor" and "subcontractor" include any employee or authorized**
17 **agent of any contractor or subcontractor who is in charge of the**
18 **construction of the public works or who is in charge of the employment or**
19 **payment of the employees;**
- 20 **(c) 1. "Locality" shall be determined by the commissioner. The**
21 **commissioner may designate more than one (1) county as a single**
22 **locality, but if more than one (1) county is designated as such, the**
23 **multicounty locality shall not extend beyond the boundaries of a state**
24 **Senatorial district. The commissioner shall not designate less than an**
25 **entire county as a locality. If enough competent employees are not**
26 **available in the locality, "locality" shall include the locality nearest to**
27 **the one in which the construction work is to be performed and in**

1 which enough competent employees may be found.

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

8 (d) "Public authority" means any:

- 9 1. Officer, board, commission, political subdivision, or department of this
10 state, or any institution supported in whole or in part by public funds,
11 including publicly owned or controlled corporations authorized by law
12 to enter into any contract for the construction of public works;
13 2. Nonprofit corporation funded to act as an agency and instrumentality
14 of the government agency in connection with the construction of
15 public works; or
16 3. Private provider, as defined in KRS 197.500, which enters into any
17 contract for the construction of an adult correctional facility as
18 defined in KRS 197.500; and

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

23 ➔ Section 17. KRS 337.990 is amended to read as follows:

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

27 (1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be

- 1 assessed a civil penalty of not less than one hundred dollars (\$100) nor more than
2 one thousand dollars (\$1,000) for each offense. Each failure to pay an employee the
3 wages when due him or her under KRS 337.020 shall constitute a separate offense.
- 4 (2) Any employer who violates KRS 337.050 shall be assessed a civil penalty of not
5 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- 6 (3) Any employer who violates KRS 337.055 shall be assessed a civil penalty of not
7 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)
8 for each offense and shall make full payment to the employee by reason of the
9 violation. Each failure to pay an employee the wages as required by KRS 337.055
10 shall constitute a separate offense.
- 11 (4) Any employer who violates KRS 337.060 shall be assessed a civil penalty of not
12 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)
13 and shall also be liable to the affected employee for the amount withheld, plus
14 interest at the rate of ten percent (10%) per annum.
- 15 (5) Any employer who violates the provisions of KRS 337.065 shall be assessed a civil
16 penalty of not less than one hundred dollars (\$100) nor more than one thousand
17 dollars (\$1,000) for each offense and shall make full payment to the employee by
18 reason of the violation.
- 19 (6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty
20 of not less than one hundred dollars (\$100) nor more than one thousand dollars
21 (\$1,000) for each offense and each day that the failure continues shall be deemed a
22 separate offense.
- 23 (7) Any employer who violates any provision of KRS 337.275 to 337.325, KRS
24 337.345, and KRS 337.385 to 337.405, or willfully hinders or delays the
25 commissioner or the commissioner's authorized representative in the performance
26 of his or her duties under KRS 337.295, or fails to keep and preserve any records as
27 required under KRS 337.320 and 337.325, or falsifies any record, or refuses to

1 make any record or transcription thereof accessible to the commissioner or the
2 commissioner's authorized representative shall be assessed a civil penalty of not
3 less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).

4 A civil penalty of not less than one thousand dollars (\$1,000) shall be assessed for
5 any subsequent violation of KRS 337.285(4) to (9) and each day the employer
6 violates KRS 337.285(4) to (9) shall constitute a separate offense and penalty.

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

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

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

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

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

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

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

4 (12) Any person who violates Section 8 of this Act shall be assessed a civil penalty of
5 not less than one hundred dollars (\$100) nor more than one thousand dollars
6 (\$1,000).

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

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

20 (c) Each day of a violation under this subsection shall constitute a separate
21 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 1 to 11 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 a
26 violation shall constitute a separate offense. If a public authority, public official,
27 or member of a public authority willfully or negligently fails to comply with

1 *Sections 1 to 11 of this Act and the failure results in damages, injury, or loss to*
2 *any person, the public authority, public official, or member of a public authority*
3 *may be held liable in a civil action.*