

1 AN ACT relating to wages and hours in nonprofit entities.

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

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

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

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

8 (b) "Department" means the Department of Workplace Standards in the Labor
9 Cabinet;

10 (c) 1. "Wages" includes any compensation due to an employee by reason of his
11 or her employment, including salaries, commissions, vested vacation
12 pay, overtime pay, severance or dismissal pay, earned bonuses, and any
13 other similar advantages agreed upon by the employer and the employee
14 or provided to employees as an established policy. The wages shall be
15 payable in legal tender of the United States or checks on banks
16 convertible into cash on demand at full face value, subject to the
17 allowances made in this chapter;

18 2. For the purposes of calculating hourly wage rates for scheduled overtime
19 for professional firefighters, as defined in KRS 95A.210(5), "wages"
20 shall not include the distribution to qualified professional firefighters by
21 local governments of supplements received from the Firefighters
22 Foundation Program Fund. For the purposes of calculating hourly wage
23 rates for unscheduled overtime for professional firefighters, as defined in
24 KRS 95A.210(6), "wages" shall include the distribution to qualified
25 professional firefighters by local governments of supplements received
26 from the Firefighters Foundation Program Fund;

27 (d) "Employer" is any person, either individual, corporation, partnership, agency,

1 or firm who employs an employee and includes any person, either individual,
2 corporation, partnership, agency, or firm acting directly or indirectly in the
3 interest of an employer in relation to an employee; and

4 (e) "Employee" is any person employed by or suffered or permitted to work for an
5 employer.

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

8 (a) "Employee" is any person employed by or suffered or permitted to work for an
9 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 home.
17 The provisions of this section shall include individuals employed in
18 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 or
5 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~~seven (7)~~
22 ~~months~~ in any 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; or

- 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 and who is
3 approved to provide family caregiver services to an adult with a
4 disability through a contractual relationship with a community board for
5 mental health or individuals with an intellectual disability established
6 under KRS 210.370 to 210.460, or is certified or licensed by the Cabinet
7 for Health and Family Services to provide adult foster care;
- 8 (b) "Agriculture" means farming in all its branches, including cultivation and
9 tillage of the soil; dairying; production, cultivation, growing, and harvesting of
10 any agricultural or horticultural commodity; raising of livestock, bees,
11 furbearing animals, or poultry; and any practice, including any forestry or
12 lumbering operations, performed on a farm in conjunction with farming
13 operations, including preparation and delivery of produce to storage, to
14 market, or to carriers for transportation to market;
- 15 (c) "Gratuity" means voluntary monetary contribution received by an employee
16 from a guest, patron, or customer for services rendered;
- 17 (d) "Tipped employee" means any employee engaged in an occupation in which
18 he or she customarily and regularly receives more than thirty dollars (\$30) per
19 month in tips; and
- 20 (e) "U.S.C." means the United States Code.
- 21 (3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:
- 22 (a) "Construction" includes construction, reconstruction, improvement,
23 enlargement, alteration, or repair of any public works project by contract fairly
24 estimated to cost more than two hundred fifty thousand dollars (\$250,000). No
25 public works project, if procured under a single contract and subject to the
26 requirements of this section, may be divided into multiple contracts of lesser
27 value to avoid compliance with the provisions of this section;

- 1 (b) "Contractor" and "subcontractor" include any superintendent, foreman, or
2 other authorized agent of any contractor or subcontractor who is in charge of
3 the construction of the public works or who is in charge of the employment or
4 payment of the employees of the contractor or subcontractor who are
5 employed in performing the work to be done or being done by the contractor
6 or subcontractor under the particular contract with any public authority;
- 7 (c) 1. "Locality" shall be determined by the commissioner. The commissioner
8 may designate more than one (1) county as a single locality, but if more
9 than one (1) county is designated, the multicounty locality shall not
10 extend beyond the boundaries of a state Senatorial district. The
11 commissioner shall not designate less than an entire county as a locality.
12 If there is not available in the locality a sufficient number of competent,
13 skilled laborers, workmen, and mechanics to efficiently and properly
14 construct the public works, "locality" shall include any other locality
15 nearest the one in which the work of construction is to be performed and
16 from which such available skilled laborers, workmen, and mechanics
17 may be obtained in sufficient number to perform the work; and
- 18 2. "Locality" with respect to contracts advertised or awarded by the
19 Transportation Cabinet of this state shall be determined by the secretary
20 of the Transportation Cabinet. The secretary may designate any number
21 of counties as constituting a single locality. The secretary may also
22 designate all counties of the Commonwealth as a single locality, but he
23 or she shall not designate less than an entire county as a locality;
- 24 (d) "Public authority" means any officer, board, or commission of this state, or
25 any political subdivision or department thereof in the state, or any institution
26 supported in whole or in part by public funds, including publicly owned or
27 controlled corporations, authorized by law to enter into any contract for the

- 1 construction of public works and any nonprofit corporation funded to act as an
2 agency and instrumentality of the government agency in connection with the
3 construction of public works, and any "private provider", as defined in KRS
4 197.500, which enters into any contract for the construction of an "adult
5 correctional facility", as defined in KRS 197.500; and
- 6 (e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches,
7 sewage disposal plants, waterworks, and all other structures or work,
8 including "adult correctional facilities", as defined in KRS 197.500,
9 constructed under contract with any public authority.
- 10 (4) If the federal government or any of its agencies furnishes by loans or grants any part
11 of the funds used in constructing public works, and if the federal government or its
12 agencies prescribe predetermined prevailing minimum wages to be paid to
13 mechanics, workmen, and laborers employed in the construction of the public
14 works, and if KRS 337.505 to 337.550 is also applicable, those wages in each
15 classification which are higher shall prevail.