

## CHAPTER 417

## (SB 69)

AN ACT relating to the Railroad Commission.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 174 IS CREATED TO READ AS FOLLOWS:

***The Transportation Cabinet shall have the responsibility of regulating railroads within the Commonwealth. The cabinet shall delegate the Office of Intermodal Programs to carry out the provisions of this section. The secretary may employ such personnel as necessary to perform the duties, functions, and responsibilities associated with the regulation of railroads. The office shall have all the powers previously vested in the Kentucky Railroad Commission. The cabinet shall promulgate administrative regulations under KRS Chapter 13A to carry out the provisions of this section.***

Section 2. KRS 174.020 is amended to read as follows:

- (1) The Transportation Cabinet in addition to the departments set forth in KRS 174.015 shall consist of the following organizational units:
- (a) Office of the Secretary of Transportation comprised of the secretary of transportation, a deputy secretary for administration, a deputy secretary for legal affairs, and the Office of Environmental Affairs created by paragraph (g){(h)} of this subsection;
  - (b){~~— Railroad Commission, attached to the Office of the Secretary for administrative purposes;~~}
  - (e){~~— Office of Public Affairs, headed by an executive director who shall serve as media spokesperson and shall be responsible for all matters relating to public relations and information;~~}
  - (c){(d)} Office of General Counsel, headed by an executive director responsible for general office administration, and the general counsel who provides legal services for the cabinet;
  - (d){(e)} Office of Personnel Management, headed by an executive director who shall be responsible for the implementation of programs and practices for the recruitment, utilization, and management of cabinet personnel;
  - (e){(f)} Office of Minority Affairs, headed by an executive director who shall be responsible for the development and implementation of programs and procedures for assisting minorities in employment and contractual relations with the cabinet;
  - (f){(g)} Kentucky Airport Zoning Commission established by KRS 183.861, which shall be attached to the Division of Aeronautics;
  - (g){(h)} Office of Environmental Affairs, headed by an executive director who shall oversee all Transportation Cabinet environmental issues, activities, and programs; developing and implementing policies; and procedures. The position of executive director is a policy-making position under the provisions of KRS 18A.175. The Office of Environmental Affairs may direct the Transportation Cabinet's environmental activities,

associated personnel, and facilities when necessary to assure compliance with environmental laws and regulations; and

(h)~~(i)~~ Office of Policy and Budget, headed by an executive director who shall be responsible for administering the budget functions of the Transportation Cabinet.

- (2) The executive directors of the Offices of Public Affairs, General Counsel, Personnel Management, Minority Affairs, Environmental Affairs, and Policy and Budget shall be appointed by the secretary with the approval of the Governor pursuant to KRS 12.050. The positions of director in the Division of Fleet Management, Division of Professional Services, and Division of Environmental Analysis are policy-making positions pursuant to KRS 18A.175.

Section 3. KRS 11A.010 is amended to read as follows:

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

- (1) "Business" means any corporation, limited liability corporation, partnership, limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, selfemployed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit;
- (2) "Commission" means the Executive Branch Ethics Commission;
- (3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;
- (4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;
- (5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received;
- (6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;
- (7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Occupational Safety and Health Review Commission, the Kentucky Board of Education, the State Board for Adult and Technical Education, the Council on Postsecondary Education, and any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection;

- (8) "Official duty" means any responsibility imposed on a public servant by virtue of his position in the state service;
- (9) "Public servant" means:
- (a) The Governor;
  - (b) The Lieutenant Governor;
  - (c) The Secretary of State;
  - (d) The Attorney General;
  - (e) The Treasurer;
  - (f) The Commissioner of Agriculture;
  - (g) The Auditor of Public Accounts; *and*
  - (h) ~~Each Railroad Commissioner; and~~
- ~~(i)~~ All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees;
- (10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his appointing authority is employed, unless his agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;
- (11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(22) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);
- (12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;
- (13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) ~~(h)~~ of this section;
- (14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;
- (15) "Public agency" means any governmental entity;
- (16) "Appointing authority" means the agency head or any person whom he has authorized by law to act on behalf of the agency with respect to employee appointments; and
- (17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else. Section 4. KRS 11A.040 is amended to read as follows:
- (1) ~~A~~ ~~no~~ public servant, in order to further his own economic interests, or those of any other person, shall *not* knowingly disclose or use confidential information acquired in the course of his official duties.

- (2) A~~ND~~ public servant shall **not** knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.
- (3) A~~ND~~ public servant shall **not** knowingly act as a representative or agent for the Commonwealth or any agency in the transaction of any business or regulatory action with himself, or with any business in which he or a member of his family has any interest greater than five percent (5%) of the total value thereof.
- (4) A~~ND~~ public servant shall **not** knowingly himself or through any business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he is employed or which he supervises, subject to the provisions of KRS 45A.340. This provision shall not apply to:
  - (a) A contract, purchase, or good faith negotiation made pursuant to KRS Chapter 416 relating to eminent domain; or
  - (b) Agreements which may directly or indirectly involve public funds disbursed through entitlement programs; or
  - (c) A public servant's spouse or child doing business with any state agency other than the agency by which the public servant is employed or which he supervises; or
  - (d) Purchases from a state agency that are available on the same terms to the general public or that are made at public auction.
- (5) A~~ND~~ public servant shall **not** knowingly accept compensation, other than that provided by law for public servants, for performance of his official duties without the prior approval of the commission.
- (6) A~~ND~~ former officer or public servant listed in KRS 11A.010(9)(a) to (g)~~(h)~~ shall **not**, within six (6) months of termination of his employment, knowingly by himself or through any business in which he owns or controls an interest of at least five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he was employed. This provision shall not apply to a contract, purchase, or good faith negotiation made under KRS Chapter 416 relating to eminent domain or to agreements that may directly or indirectly involve public funds disbursed through entitlement programs. This provision shall not apply to purchases from a state agency that are available on the same terms to the general public or that are made at public auction.
- (7) A~~ND~~ present or former officer or public servant listed in KRS 11A.010(9)(a) to (g)~~(h)~~ shall **not**, within six (6) months following termination of his office or employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with, or is regulated by, the state in matters in which he was directly involved during the last thirty-six (36) months of his tenure. This provision shall not prohibit an individual from returning to the same business, firm, occupation, or profession in which he was involved prior to taking office or beginning his term of employment, or for which he received, prior to his state employment, a professional degree or license, provided that, for a

period of six (6) months, he personally refrains from working on any matter in which he was directly involved during the last thirty-six (36) months of his tenure in state government. This subsection shall not prohibit the performance of ministerial functions including, but not limited to, filing tax returns, filing applications for permits or licenses, or

filing incorporation papers, nor shall it prohibit the former officer or public servant from receiving public funds disbursed through entitlement programs.

- (8) A former public servant shall not act as a lobbyist or lobbyist's principal in matters in which he was directly involved during the last thirty-six (36) months of his tenure for a period of one (1) year after the latter of:
  - (a) The date of leaving office or termination of employment; or
  - (b) The date the term of office expires to which the public servant was elected.
- (9) A former public servant shall not represent a person or business before a state agency in a matter in which the former public servant was directly involved during the last thirty-six (36) months of his tenure, for a period of one (1) year after the latter of:
  - (a) The date of leaving office or termination of employment; or
  - (b) The date the term of office expires to which the public servant was elected.
- (10) Without the approval of his appointing authority, ~~a~~ public servant shall **not** accept outside employment from any person or business that does business with or is regulated by the state agency for which the public servant works or which he supervises, unless the outside employer's relationship with the state agency is limited to the receipt of entitlement funds.
  - (a) The appointing authority shall review administrative regulations established under KRS Chapter 11A when deciding whether to approve outside employment for a public servant.
  - (b) The appointing authority shall not approve outside employment for a public servant if the public servant is involved in decision-making or recommendations concerning the person or business from which the public servant seeks outside employment or compensation.
  - (c) The appointing authority, if applicable, shall file quarterly with the Executive Branch Ethics Commission a list of all employees who have been approved for outside employment along with the name of the outside employer of each.
- (11) The prohibitions imposed by subsection (5) or (10) of this section shall not apply to Professional Golfers' Association class A members who teach golf lessons and receive a fee or lesson charge at golf courses owned and operated by the Kentucky Department of Parks. Instruction provided by an employee of the Commonwealth shall only be given while the employee is on his or her own personal time. The commissioner of the Department of Parks shall promulgate administrative regulations to establish guidelines for the process by which Professional Golfers' Association class A members are approved to teach golf lessons at Kentucky Department of Parks-owned golf courses. The exception granted by this subsection is in recognition of the benefits that will accrue to the Kentucky Department of Parks due to increased participation at state-owned golf courses.

Section 5. KRS 11A.050 is amended to read as follows:

- (1) Each officer, each public servant listed in KRS 11A.010(9)(a) to (g)~~{(h)}~~, and each candidate shall file a statement of financial disclosure with the commission, as follows:
  - (a) Each officer and each public servant listed in KRS 11A.010(9)(a) to (g)~~{(h)}~~ who occupies his position during any portion of a calendar year shall file the statement for that entire calendar year on or before April 15 of the following year, whether or not he remains an officer or public servant as listed in KRS 11A.010(9)(a) to (g)~~{(h)}~~.
  - (b) A candidate shall file the statement reflecting the previous calendar year with the commission no later than February 15.
- (2) The statement of financial disclosure shall be filed on a form prescribed by the commission. The commission shall provide copies of the form upon request without charge.
- (3) The statement shall include the following information for the preceding calendar year:
  - (a) Name and entire residential and business address of filer;
  - (b) Title of position or office whereby filing is required;
  - (c) Any other occupations of filer and spouse;
  - (d) Positions held by the filer or his spouse in any business, partnership, or corporation for profit;
  - (e) Names and addresses of all businesses in which the filer, his spouse, or dependent children has or had an interest of ten thousand dollars (\$10,000) at fair market value or five percent (5%) ownership interest or more;
  - (f) Sources of gross income of the filer or his spouse, as well as information concerning the nature of the business, and the form of the income;
  - (g) Sources of retainers received by the filer or his spouse;
  - (h) Any representation or intervention for compensation by the filer or his spouse for any person before policy-making entities in state government;
  - (i) All positions of a fiduciary nature in a business;
  - (j) Information regarding any real property in which there is an interest of ten thousand dollars (\$10,000) or more held by the filer, his spouse, or dependent children;
  - (k) Sources of gifts of money or property with a retail value of more than two hundred dollars (\$200) to the filer, his spouse, or dependent children, except those from spouse, parents, or grandparents; and
  - (l) Identity of creditors owed more than ten thousand dollars (\$10,000), except debts arising from the purchase of consumer goods.

Paragraphs (a) to (l) of this subsection shall not require disclosure of specific dollar amounts or of privileged information.

Section 6. KRS 11A.201 is amended to read as follows:

As used in KRS 11A.201 to 11A.246 and KRS 11A.990:

- (1) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;
- (2) (a) "Expenditure" means any of the following that is made to, or for the benefit of an elected executive official, the secretary of a cabinet listed in KRS 12.250, an executive agency official, or a member of the staff of any of the officials listed in this paragraph:
  1. A payment, distribution, loan, advance, deposit, reimbursement, or gift of money, real estate, or anything of value, including, but not limited to, food and beverages, entertainment, lodging, transportation, or honoraria;
  2. A contract, promise, or agreement to make an expenditure; or
  3. The purchase, sale, or gift of services or any other thing of value.(b) "Expenditure" does not include a contribution, gift, or grant to a foundation or other charitable organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code. "Expenditure" does not include the purchase, sale, or gift of services or any other thing of value that is available to the general public on the same terms as it is available to the persons listed in this subsection. "Expenditure" does not include a payment, contribution, gift, purchase, or any other thing of value that is made to or on behalf of any elected executive official, the secretary of a cabinet listed in KRS 12.250, an executive agency official, or any member of the staff of any of the officials listed in this paragraph who works for a state agency for which the executive agency lobbyist is not registered to influence;
- (3) "Employer" means any person who engages an executive agency lobbyist;
- (4) "Engage" means to make any arrangement, and "engagement" means arrangement, whereby an individual is employed or retained for compensation to act for or on behalf of an employer to influence executive agency decisions or to conduct any executive agency lobbying activity;
- (5) (a) "Financial transaction" means a transaction or activity that is conducted or undertaken for profit and arises from the joint ownership, or the ownership, or part ownership in common of any real or personal property or any commercial or business enterprise of whatever form or nature between the following:
  1. An executive agency lobbyist, his employer, a real party in interest, or a member of the immediate family of the executive agency lobbyist, his employer, or a real party in interest; and
  2. Any elected executive official, the secretary of a cabinet listed in KRS 12.250, an executive agency official, or any member of the staff of any of the officials listed in this subparagraph.(b) "Financial transaction" does not include any transaction or activity described in paragraph (a) of this subsection if it is available to the general public on the same terms;
- (6) "Executive agency" means the office of an elected executive official, a cabinet listed in KRS 12.250, or any other state agency, department, board, or commission controlled or directed by an elected executive official or otherwise subject to his authority. "Executive agency" does not include any court or the General Assembly;

- (7) "Executive agency decision" means a decision of an executive agency regarding the expenditure of funds of the state or of an executive agency with respect to the award of a contract, grant, lease, or other financial arrangement under which those funds are distributed or allocated;
- (8) (a) "Executive agency lobbyist" means any person engaged to influence executive agency decisions or to conduct executive agency lobbying activity as one (1) of his main purposes on a substantial basis.
- (b) "Executive agency lobbyist" does not include an elected or appointed officer or employee of a federal or state agency, state college, state university, or political subdivision who attempts to influence or affect executive agency decisions in his fiduciary capacity as a representative of his agency, college, university, or political subdivision;
- (9) (a) "Executive agency lobbying activity" means contacts made to promote, oppose, or otherwise influence the outcome of an executive agency decision by direct communication with an elected executive official, the secretary of any cabinet listed in KRS 12.250, any executive agency official, or a member of the staff of any one of the officials listed in this paragraph.
- (b) "Executive agency lobbying activity" does not include any of the following:
1. The action of any person having a direct interest in executive agency decisions, if the person acting under Section 1 of the Kentucky Constitution, assembles together with other persons for their common good, petitions any person listed in paragraph (a) of this subsection for the redress of grievances or other proper purposes;
  2. Contacts made for the sole purpose of gathering information contained in a public record; or
  3. Appearances before public meetings of executive agencies;
- (10) "Executive agency official" means an officer or employee of an executive agency whose principal duties are to formulate policy or to participate directly or indirectly in the preparation, review, or award of contracts, grants, leases, or other financial arrangements with an executive agency;
- (11) "Aggrieved party" means a party entitled to resort to a remedy;
- (12) "Elected executive official" means the Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, *and* Commissioner of Agriculture~~[-, and Railroad Commissioners];~~
- (13) "Person" means an individual, proprietorship, firm, partnership, limited liability partnership, joint venture, joint stock company, syndicate, business, trust, estate, company, corporation, limited liability corporation, association, club, committee, organization, or group of persons acting in concert;
- (14) "Staff" means any employee of the office of the Governor, or a cabinet listed in KRS 12.250, whose official duties are to formulate policy and who exercises administrative or supervisory authority, or who authorizes the expenditure of state funds;



- (15) "Real party in interest" means the person or entity on whose behalf an executive agency lobbyist is acting, if that person or entity is not the employer of the executive agency lobbyist; and
- (16) "Substantial basis" means contacts which are intended to influence a decision that involves one or more disbursements of state funds in an amount of at least five thousand dollars (\$5,000) per year.

Section 7. KRS 12.020 is amended to read as follows:

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

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
  - (a) Secretary of State.
  - (b) Board of Elections.
  - (c) Registry of Election Finance.
4. Department of Law.
  - (a) Attorney General.
5. Department of the Treasury.
  - (a) Treasurer.
6. Department of Agriculture.
  - (a) Commissioner of Agriculture.
  - (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.
9. ~~Railroad Commission.~~

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
  - (a) Department of State Police.
  - (b) Department of Criminal Justice Training.

- (c) Department of Corrections.
  - (d) Department of Juvenile Justice.
  - (e) Office of the Secretary.
  - (f) Offices of the Deputy Secretaries.
  - (g) Office of General Counsel.
  - (h) Division of Kentucky State Medical Examiners Office.
  - (i) Parole Board.
  - (j) Kentucky State Corrections Commission.
  - (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
- (a) Department of Education.
    - (1) Kentucky Board of Education.
    - (2) Education Professional Standards Board.
  - (b) Department for Libraries and Archives.
  - (c) Kentucky Arts Council.
  - (d) Kentucky Educational Television.
  - (e) Kentucky Historical Society.
  - (f) Kentucky Teachers' Retirement System Board of Trustees.
  - (g) Kentucky Center for the Arts.
  - (h) Kentucky Craft Marketing Program.
  - (i) Kentucky Commission on the Deaf and Hard of Hearing.
  - (j) Governor's Scholars Program.
  - (k) Governor's School for the Arts.
  - (l) Operations and Development Office.
  - (m) Kentucky Heritage Council.
  - (n) Kentucky African-American Heritage Commission.
  - (o) Board of Directors for the Center for School Safety.
3. Natural Resources and Environmental Protection Cabinet:
- (a) Environmental Quality Commission.
  - (b) Kentucky Nature Preserves Commission.
  - (c) Department for Environmental Protection.
  - (d) Department for Natural Resources.
  - (e) Department for Surface Mining Reclamation and Enforcement.
  - (f) Office of Legal Services.

- (g) Office of Information Services.
- 4. Transportation Cabinet:
  - (a) Department of Highways.
  - (b) Department of Vehicle Regulation.
  - (c) Department of Administrative Services.
  - (d) Department of Fiscal Management.
  - (e) Department of Rural and Municipal Aid.
  - (f) Office of General Counsel.
  - (g) Office of Public Affairs.
  - (h) Office of Personnel Management.
  - (i) Office of Minority Affairs.
  - (j) Office of Environmental Affairs.
  - (k) Office of Policy and Budget.
- 5. Cabinet for Economic Development:
  - (a) Department of Administration and Support.
  - (b) Department of Job Development.
  - (c) Department of Financial Incentives.
  - (d) Department of Community Development.
  - (e) Tobacco Research Board.
  - (f) Kentucky Economic Development Finance Authority.
- 6. Public Protection and Regulation Cabinet:
  - (a) Public Service Commission.
  - (b) Department of Insurance.
  - (c) Department of Housing, Buildings and Construction.
  - (d) Department of Financial Institutions.
  - (e) Department of Mines and Minerals.
  - (f) Department of Public Advocacy.
  - (g) Department of Alcoholic Beverage Control.
  - (h) Kentucky Racing Commission.
  - (i) Board of Claims.
  - (j) Crime Victims Compensation Board.
  - (k) Kentucky Board of Tax Appeals.
  - (l) Backside Improvement Commission.
  - (m) Office of Petroleum Storage Tank Environmental Assurance Fund.

7. Cabinet for Families and Children:
  - (a) Department for Social Insurance.
  - (b) Department for Social Services.
  - (c) Public Assistance Appeals Board.
  - (d) Office of the Secretary.
  - (e) Office of the General Counsel.
  - (f) Office of Program Support.
  - (g) Office of Family Resource and Youth Services Centers.
  - (h) Office of Technology Services.
  - (i) Office of the Ombudsman.
  - (j) Office of Aging Services.
8. Cabinet for Health Services.
  - (a) Department for Public Health.
  - (b) Department for Medicaid Services.
  - (c) Department for Mental Health and Mental Retardation Services.
  - (d) Kentucky Commission on Children with Special Health Care Needs.
  - (e) Office of Certificate of Need.
  - (f) Office of the Secretary.
  - (g) Office of the General Counsel.
  - (h) Office of Program Support.
  - (i) Office of the Inspector General.
9. Finance and Administration Cabinet:
  - (a) Office of Legal and Legislative Services.
  - (b) Office of Management and Budget.
  - (c) Office of Financial Management and Economic Analysis.
  - (d) Office of the Controller.
  - (e) Department for Administration.
  - (f) Department of Facilities Management.
  - (g) Department of Information Systems.
  - (h) State Property and Buildings Commission.
  - (i) Kentucky Pollution Abatement Authority.
  - (j) Kentucky Savings Bond Authority.
  - (k) Deferred Compensation Systems.
  - (l) Office of Equal Employment Opportunity Contract Compliance.

- (m) Office of Capital Plaza Operations.
  - (n) County Officials Compensation Board.
  - (o) Kentucky Employees Retirement Systems.
  - (p) Commonwealth Credit Union.
  - (q) State Investment Commission.
  - (r) Kentucky Housing Corporation.
  - (s) Governmental Services Center.
  - (t) Kentucky Local Correctional Facilities Construction Authority.
  - (u) Kentucky Turnpike Authority.
  - (v) Historic Properties Advisory Commission.
  - (w) Kentucky Kare Health Insurance Authority.
10. Labor Cabinet:
- (a) Department of Workplace Standards.
  - (b) Department of Workers' Claims.
  - (c) Kentucky Labor-Management Advisory Council.
  - (d) Occupational Safety and Health Standards Board.
  - (e) Prevailing Wage Review Board.
  - (f) Workers' Compensation Board.
  - (g) Kentucky Employees Insurance Association.
  - (h) Apprenticeship and Training Council.
  - (i) State Labor Relations Board.
  - (j) Kentucky Occupational Safety and Health Review Commission.
  - (k) Office of Administrative Services.
  - (l) Office of Labor-Management Relations and Mediation.
  - (m) Office of General Counsel.
  - (n) Workers' Compensation Funding Commission.
  - (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
  - (b) Department of Tax Administration.
  - (c) Office of Financial and Administrative Services.
  - (d) Department of Law.
  - (e) Department of Information Technology.
  - (f) Office of Taxpayer Ombudsman.

12. Tourism Development Cabinet:
  - (a) Department of Travel.
  - (b) Department of Parks.
  - (c) Department of Fish and Wildlife Resources.
  - (d) Kentucky Horse Park Commission.
  - (e) State Fair Board.
  - (f) Office of Administrative Services.
  - (g) Office of General Counsel.
13. Cabinet for Workforce Development:
  - (a) Department for Adult Education and Literacy.
  - (b) Department for Technical Education.
  - (c) Department of Vocational Rehabilitation.
  - (d) Department for the Blind.
  - (e) Department for Employment Services.
  - (f) State Board for Adult and Technical Education.
  - (g) Governor's Council on Vocational Education.
  - (h) The State Board for Proprietary Education.
  - (i) The Foundation for Adult Education.
  - (j) The Kentucky Job Training Coordinating Council.
  - (k) Office of General Counsel.
  - (l) Office of Communication Services.
  - (m) Office of Development and Industry Relations.
  - (n) Office of Workforce Analysis and Research.
  - (o) Office for Administrative Services.
  - (p) Office for Policy and Budget.
  - (q) Office of Personnel Services.
  - (r) Unemployment Insurance Commission.
14. Personnel Cabinet:
  - (a) Office of Administrative and Legal Services.
  - (b) Department for Personnel Administration.
  - (c) Department for Employee Relations.
  - (d) Kentucky Public Employees Deferred Compensation Authority.
  - (e) Kentucky Kare.
  - (f) Division of Performance Management.

- (g) Division of Employee Records.
- (h) Division of Staffing Services.
- (i) Division of Classification and Compensation.
- (j) Division of Employee Benefits.
- (k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Council on Postsecondary Education.
  - (a) Kentucky Commission on Community Volunteerism and Service.
- 3. Department for Local Government.
- 4. Kentucky Commission on Human Rights.
- 5. Kentucky Commission on Women.
- 6. Department of Veterans' Affairs.
- 7. Kentucky Commission on Military Affairs.
- 8. Office of the Chief Information Officer.

Section 8. KRS 15.105 is amended to read as follows:

- (1) The Attorney General, with the approval of the head of the cabinet ~~or the commission~~ involved shall appoint assistant attorneys general for the Transportation Cabinet, the Finance and Administration Cabinet, **and** the Revenue Cabinet~~, and for the Railroad Commission~~.
- (2) The assistant attorneys general and additional attorneys provided for in subsection (1) of this section shall each be a person admitted to the practice of law by the Supreme Court of this Commonwealth and shall qualify by taking the oath of office. They shall be paid out of the appropriation or other funds of the respective agency to which they are assigned.

Section 9. KRS 82.400 is amended to read as follows:

- (1) If any person desires to offer for dedication by recorded plat any public way or easement within the city limits, he shall file with the city legislative body a map or plat of the territory bounded, intersected, or immediately adjacent to the proposed public way or easement, showing the proposed name, nature, and dimensions of the public way or easement offered for dedication. If the city legislative body decides the proposed dedication would be beneficial to the public interest and suitable for the immediate or future acceptance of the city, it shall approve the map or plat, and the mayor shall subscribe a certificate of approval on the map and acknowledge the execution thereof before any public officer authorized to take acknowledgments of deeds. The map or plat may then be recorded in the office of the county clerk.
- (2) Except as provided for by ordinance in a city of the first class or in a county containing a city of the first class, subdivision regulations which have been adopted as provided in KRS Chapter 100, and where streets or public ways as dedicated on the final subdivision plat have been constructed, inspected, and approved in accordance with the subdivision regulations, then the procedure for filing the map or plat with the city legislative body as required in

subsection (1) of this section shall be waived, and the dedicated street or public way shall automatically be deemed beneficial to the public interest and shall be, by operation of law, automatically accepted for maintenance by the city forty-five (45) days after inspection and final approval, and shall be a public way for all purposes, KRS Chapter 83A, regarding a city's adoption of ordinances notwithstanding.

- (3) When any property has been opened to the unrestricted use of the general public for five (5) consecutive years, it shall be conclusively presumed to have been dedicated to the city as a public way or easement, subject to acceptance by the city. The city may, at any time after the expiration of five (5) years from the time the property is opened to the public, pass an ordinance declaring it so dedicated, and accepting the dedication, whereupon it shall be a public way or easement of the city for all purposes. The lack of an actual dedication to the city, or of a record title on the part of the city, shall be no defense against the collection of any tax that may be levied against property abutting thereon for the payment of the cost of any improvement constructed thereon by order of the city. Nothing herein shall be construed to require the expiration of five (5) years to raise a presumption of dedication in any case where, under any rule of law in force in this state, a dedication would be presumed in less than five (5) years. Provided, however, that ~~no~~ property of a **railroad company** ~~carrier by rail, as defined in KRS 276.010(3),~~ shall **not** be presumed to be dedicated as a public way or easement under this section or any other rule of law in force in this state unless the **company** ~~carrier~~ consents to said dedication in writing.
- (4) Any person who shall lodge for record in the county clerk's office, and any county clerk or deputy who shall receive for record or permit to be lodged for record, any plat, map, deed, or other instrument contrary to the provisions of this section, shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100) for each offense.

Section 10. KRS 247.232 is amended to read as follows:

As used in KRS 247.234 and 247.236:

- (1) "Amusement ride" means any mechanized device or combination of devices which carry passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. "Amusement ride" does not include coin-operated amusement devices that carry no more than two (2) persons and devices regulated by the Federal Aviation Administration, the **Kentucky Transportation Cabinet, the state and** federal railroad commission, and vessels under the jurisdiction of the United States Coast Guard or the Kentucky Department of Fish and Wildlife Resources;
- (2) "Amusement attraction" means any building or structure around, over, or through which people may walk, climb, slide, jump, or move that provides amusement, pleasure, thrills, or excitement. "Amusement attraction" does not include tractor pulls, auto or motorcycle events, horse shows, rodeos and other animal shows, games and concessions, nonmechanical playground equipment, such as swings, slides, seesaws, climbers, trampolines, rider-propelled merry-go-rounds, stationary spring-mounted animal devices, and physical fitness equipment, unless designated by regulation of the Commissioner;
- (3) "Carnival" means an enterprise offering amusement or entertainment to the public by means of one (1) or more amusement rides and attractions;



- (4) "Fair" means an enterprise principally devoted to the exhibition of products of agriculture, science, or industry in conjunction with the operation of one (1) or more amusement rides or attractions;
- (5) "Owner" means any person who owns an amusement ride or attraction or, in the event that the amusement ride or attraction is leased, the lessee; and
- (6) "Commissioner" means the Commissioner of Kentucky Department of Agriculture or his authorized representative.

Section 11. KRS 277.070 is amended to read as follows:

- (1) Every railroad company proceeding to construct its road in or through any county shall file and have recorded at its expense, in the office of the county clerk of that county, a map of the route showing the center and the width of the proposed road. If, after the map is filed and recorded, the location or the proposed route is changed, a map showing the change, and the center and width thereof, shall be filed and recorded at the expense of the company in the office of the county clerk of the county in which the change is made.
- (2) If the proposed route indicated by the map crosses the line of any other railroad, the company filing the map shall, before commencing the construction of the road near the point of crossing, notify the **Kentucky Transportation Cabinet. The cabinet shall notify**~~Railroad Commission, which shall give notice to~~ the company whose road it is proposed to cross, and to the company proposing to cross it, that if any objection is made to the crossing the **cabinet**~~commission~~ will meet, at a stated time and place, to consider the question of approving the crossing. The **cabinet**~~commission~~ may determine the manner in which the crossing shall be made in order to protect against accidents.

Section 12. KRS 277.170 is amended to read as follows:

**If the Kentucky Transportation Cabinet determines it is in**~~Whenever, in the opinion of the Railroad Commission,~~ the public interest **for**~~requires that~~ a gate be erected or maintained or a flagman stationed at any highway crossing within one mile of the corporate limits of any city, the **cabinet**~~commission~~ shall give the superintendent or manager of the railroad written notice that a gate or flagman is required. If a gate is required, the notice shall prescribe the time within which the gate shall be erected,~~and~~ the character of gate required, and shall designate the hours during which a man shall be kept in charge of the gate. If a flagman is required, the notice shall designate the hours during which he shall be kept at the crossing. The railroad company shall comply with the provisions of the notice. The **cabinet**~~Railroad Commission~~ may authorize the discontinuance of the gate or flagman whenever, in its judgment, the public interest no longer requires it.

Section 13. KRS 277.240 is amended to read as follows:

- (1) A~~No~~ bridge or passway constructed over any railroad, except in cities having power under their charters to regulate the height of~~such~~ bridges or passways, shall **not** be at a less height than twenty-two (22) feet above the track of the road, unless by the written authority of the **Kentucky Transportation Cabinet**~~Railroad Commission~~.
- (2) Whenever there is, over any railroad track, a bridge, tunnel or other obstruction at a height of less than seven (7) feet above the roof of the freight cars used or hauled on that railroad, the officers of the railroad shall erect and keep in repair at or near the bridge, tunnel or obstruction, and on each side thereof, a rod or beam placed across the track at such height and at such distance from the bridge, tunnel or obstruction as the **cabinet**~~Railroad Commission~~ directs,

and from the rod or beam shall be suspended straps, ropes, or cords of such length as the *cabinet*~~[commission]~~ determines, and not greater than six (6) inches apart, for a width of eight (8) feet, directly over the track.

Section 14. KRS 277.300 is amended to read as follows:

If any accident on a railroad is attended with loss of life, the company operating the road on which the accident occurred shall notify the *Kentucky Transportation Cabinet*~~[Railroad Commission]~~ within five (5) days after the accident occurred and shall furnish the *cabinet*~~[commission]~~ all information requested by it concerning the cause of the accident.

Section 15. KRS 277.990 is amended to read as follows:

- (1)~~— Any corporation that possesses, controls, maintains or operates any railroad or part thereof in this state in violation of the provisions of subsection (1) of KRS 277.020 shall be fined not less than one thousand dollars (\$1,000) for each offense, and any officer, agent or employee of such a corporation who assists the corporation in such a violation shall be fined not less than one hundred dollars (\$100) for each offense. Each day or part thereof that the corporation possesses, controls, maintains or operates the railroad or part thereof, and each day or part thereof that the officer, agent or employee assists therein, shall constitute a separate offense.~~
- (2)~~— Any railroad company that violates or permits any of its agents or employees to violate any of the provisions of KRS 277.110, subsection (1) of 277.160, 277.170, 277.180, 277.210, 277.230 or 277.300 shall, in addition to subjecting itself to any damages that may be caused by such violation, be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each offense, to be recovered in the Franklin Circuit Court or in the circuit court of any county through which the railroad operates a line of road.~~
- (2)~~(3) — Any person who violates any of the provisions of subsection (2) of KRS 277.160 shall be fined not less than five dollars (\$5) nor more than one hundred dollars (\$100) for each offense.~~
- (3)~~(4) — Any railroad company that violates, or permits any of its agents or employees to violate, any of the provisions of KRS 277.190, shall, in addition to subjecting itself to liability for any damage caused thereby, be fined not less than ten dollars (\$10) nor more than fifty dollars (\$50) for each offense. Prosecutions under this subsection shall not be commenced after six (6) months from the commission of the offense charged in the prosecution.~~
- (4)~~(5) — Any person who violates any of the provisions of KRS 277.250 shall be fined fifty dollars (\$50) or imprisoned for thirty (30) days, or both.~~
- (5)~~(6) — Any owner or operator of a railroad running through or within this state as a common carrier of persons or property or both, for compensation, who either operates for its employees, or who furnishes to its employees for their transportation to or from the place or places where they are required to labor, a rail track motor car that has not been fully equipped as required by KRS 277.245, shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each offense and each day or part of a day it operates or furnishes each of such rail track motor cars not so equipped as provided in KRS 277.245 to its employees for operation to or from the place or places where they are required to work shall constitute a separate offense.~~
- (6)~~(7) — Any railroad company that violates the provisions of KRS 277.200 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100) for each offense. If a grade crossing or drawbridge is obstructed by two (2) or more trains stopping and standing~~

thereon in succession without allowing accumulated highway or water traffic to pass, the obstruction by each such successive train shall constitute a separate offense.

Section 16. KRS 506.120 is amended to read as follows:

- (1) ~~Any~~ person, with the purpose to establish or maintain a criminal syndicate or to facilitate any of its activities, shall *not* do any of the following:
  - (a) Organize or participate in organizing a criminal syndicate or any of its activities;
  - (b) Provide material aid to a criminal syndicate or any of its activities, whether such aid is in the form of money or other property, or credit;
  - (c) Manage, supervise, or direct any of the activities of a criminal syndicate, at any level of responsibility;
  - (d) Knowingly furnish legal, accounting, or other managerial services to a criminal syndicate;
  - (e) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of, any offense of a type in which a criminal syndicate engages on a continuing basis;
  - (f) Commit, or conspire or attempt to commit or act as an accomplice in the commission of, any offense of violence;
  - (g) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of bribery in violation of KRS Chapters 518 or 521, or KRS 119.205, 121.025, 121.055, 524.070, 156.465, 45A.340, 63.090, 6.080, 18A.145, or 244.600.
- (2) Whoever violates this section is guilty of engaging in organized crime, which shall be a Class B felony.
- (3) As used in this section "criminal syndicate" means five (5) or more persons collaborating to promote or engage in any of the following on a continuing basis:
  - (a) Extortion or coercion in violation of KRS 514.080~~[, 276.280, 276.310,]~~ or 521.020;
  - (b) Engaging in, promoting, or permitting prostitution in violation of KRS Chapter 529;
  - (c) Any theft offense as defined in KRS Chapter 514;
  - (d) Any gambling offense as defined in KRS 411.090, KRS Chapter 528, or Section 226 of the Constitution;
  - (e) Illegal trafficking in controlled substances as prohibited by KRS Chapter 218A, in intoxicating or spirituous liquor as defined in KRS Chapters 242 or 244, or in destructive devices or booby traps as defined in KRS Chapter 237;
  - (f) Lending at usurious interest, and enforcing repayment by illegal means in violation of KRS Chapter 360.

Section 17. The following KRS sections are repealed:

15.145 Assistant attorney general for Railroad Commission.

276.010 Definitions.

276.020 Service and facilities of common carriers to be adequate -- Rates and practices to be just and reasonable.

- 276.030 Railroad Commission to enforce laws relating to common carriers.
- 276.040 Organization of Railroad Commission -- Quorum.
- 276.050 Districts from which railroad commissioners to be elected.
- 276.060 Office of Railroad Commission -- Employees -- Salaries -- Transportation.
- 276.070 Appointments or gifts not to be solicited or accepted by, or offered to, railroad commissioner.
- 276.080 Fees for copies of records of commission.
- 276.090 Annual reports by railroads and express companies to Railroad Commission.
- 276.100 Power of Railroad Commission to secure evidence.
- 276.110 Public disclosure of information obtained by Railroad Commission.
- 276.120 Annual report of Railroad Commission to Governor.
- 276.130 Express companies and carriers by rail to publish, file and display rate schedules.
- 276.140 Written statement of rate to be given on request.
- 276.150 Deviation from rate schedule prohibited -- Special contract rates permitted.
- 276.160 Notice of change of rate schedules.
- 276.170 Hearing on proposed change in rate, classification, regulation or practice.
- 276.180 Powers of Railroad Commission as to rates, classifications, regulations and practices of express companies and carriers by water.
- 276.190 Interstate freight rates, duties of Railroad Commission concerning.
- 276.200 Joint rates and traffic agreements -- Regulations as to more than one rate, regulation or practice.
- 276.210 Rate control arrangements between carriers by water and other carriers prohibited -One not to own interest in other.
- 276.220 Demurrage charges.
- 276.230 Long and short hauls.
- 276.240 Transportation of passengers free or at reduced rates forbidden -- Exceptions.
- 276.250 Record of passenger transportation given free or at reduced rates -- Report to Attorney General.
- 276.260 Transportation of property free or at reduced rates by express company or carrier by water forbidden -- Exceptions.
- 276.270 Transportation of persons for purpose of intimidating public officers forbidden.
- 276.280 Extortion.
- 276.290 Unjust discrimination.
- 276.300 Undue or unreasonable preference.
- 276.310 Hearings and orders as to extortion.

- 276.320 Hearings and orders as to unjust discrimination or undue or unreasonable preference.
- 276.330 Railroad Commission may hear complaints concerning common carriers or act on own motion.
- 276.340 Form of complaints -- Conduct of hearings.
- 276.350 Revocation or modification of orders of Railroad Commission.
- 276.360 Evidentiary effect of award of damages.
- 276.370 Enforcement of award or order -- Appeal.
- 276.375 Judicial review of orders of Railroad Commission.
- 276.380 Sheriff to serve summonses and orders of Railroad Commission.
- 276.390 Common carrier statutes are in addition to other laws.
- 276.400 Two railroads using same line to furnish facilities for traffic without discrimination.
- 276.410 Railroad Commission may notify railroad to make repairs or improvements.
- 276.420 Railroads to furnish accommodations for freight and passengers -- Checking of baggage.
- 276.430 Waiting rooms -- Ticket offices -- Notice of delay of train -- Announcement of stations and route.
- 276.450 Transportation of explosives by carriers -- Rules of Railroad Commission governing.
- 276.460 Unclaimed freight, express or baggage, how sold.
- 276.470 Transportation companies to issue bills of lading -- Liability for loss of or damage to freight.
- 276.480 Abandonment of passenger service.
- 276.490 Obstructing or interfering with Railroad Commission.
- 276.500 Limitation of prosecutions and actions.
- 276.510 Venue of prosecutions and actions.
- 276.550 Agreements with Federal Railroad Administration -- Approval.
- 276.990 Penalties.
- 277.020 Foreign railroad companies must incorporate in Kentucky and accept Constitution -Effect of organization and filing prior to July 1, 1946.
- 277.030 Continuation of limited railroad grants and franchises.
- 277.100 Purchase or sale of railroad property and franchises -- Subscription to stock in other railroads.
- 277.120 Borrowing by railroad company -- Mortgages -- Bonds.
- 277.130 Plan for reorganization of insolvent railroad company.
- 277.140 Judicial approval of plan and acceptance by creditors.
- 277.150 Sale of property where no plan proposed -- Reorganization by purchasers.
- 280.160 Reorganization of insolvent companies operating bridges across boundary streams.

424.310 Railroad Commission hearings.

Section 18. Sections 1 to 17 of this Act shall take effect December 1, 2000, if a constitutional amendment proposing to abolish the Kentucky Railroad Commission is enacted by the 2000 General Assembly and approved by the voters in the November 2000 general election. Otherwise, Sections 1 to 17 of this Act shall be void.

**Approved April 21, 2000**