

CHAPTER 542 (HB 511)

AN ACT relating to the executive branch ethics code.

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

Section 1. KRS 11A.211 is amended to read as follows:

- (1) Each executive agency lobbyist, employer, and real party in interest shall file with the commission within ten (10) days following the engagement of an executive agency lobbyist, an initial registration statement showing all of the following:
 - (a) The name, business address, and occupation of the executive agency lobbyist;
 - (b) The name and business address of the employer and of any real party in interest on whose behalf the executive agency lobbyist is acting, if it is different from the employer. However, if a trade association or other charitable or fraternal organization that is exempt from federal income taxation under Section 501(c) of the Internal Revenue Code is the employer, the statement need not list the names and addresses of every member of the association or organization, so long as the association or organization itself is listed;
 - (c) A brief description of the executive agency decision to which the engagement relates;
 - (d) The name of the executive agency or agencies to which the engagement relates; and
 - (e) Certification by the employer and executive agency lobbyist that the information contained in the registration statement is complete and accurate.
- (2) In addition to the initial registration statement required by subsection (1) of this section, each executive agency lobbyist, employer, and real party in interest shall file with the commission, not later than the last day of ~~January and~~ July of each year, an updated registration statement that confirms the continuing existence of each engagement described in an initial registration statement and that lists the specific executive agency decisions the executive agency lobbyist sought to influence under the engagement during the period covered by the updated statement, and with it any statement of expenditures required to be filed by KRS 11A.216 and any details of financial transaction required to be filed by KRS 11A.221.
- (3) If an executive agency lobbyist is engaged by more than one (1) employer, the executive agency lobbyist shall file a separate initial and updated registration statement for each engagement. If an employer engages more than one (1) executive agency lobbyist, the employer shall file only one (1) updated registration statement under subsection (2) of this section, which shall contain the information required by subsection (2) of this section regarding all executive agency lobbyists engaged by the employer.
- (4) (a) A change in any information required by subsection (1)(a), (b), (c), (d), or (2) of this section shall be reflected in the next updated registration statement filed under subsection (2) of this section.
 - (b) Within thirty (30) days following the termination of an engagement, the executive agency lobbyist who was employed under the engagement shall file written notice of the termination with the commission.
- (5) No registration fee shall be charged for filing a registration statement.

- (6) Upon registration pursuant to this section, an executive agency lobbyist shall be issued a card annually by the commission showing the executive agency lobbyist is registered. The registration card shall be valid from the date of its issuance through the thirty-first day of ~~July~~~~January~~ of the following year.
- (7) The commission shall review each registration statement filed with the commission under this section to determine if the statement contains all of the required information. If the commission determines the registration statement does not contain all of the required information or that an executive agency lobbyist, employer, or real party in interest has failed to file a registration statement, the commission shall send written notification of the deficiency by certified mail to the person who filed the registration statement or to the person who failed to file the registration statement regarding the failure. Any person so notified by the commission shall, not later than fifteen (15) days after receiving the notice, file a registration statement or an amended registration statement that includes all of the required information. If any person who receives a notice under this subsection fails to file a registration statement or an amended registration statement within the fifteen (15) day period, the commission may initiate an investigation of the person's failure to file. If the commission initiates an investigation pursuant to this section, the commission shall also notify each elected executive official and the secretary of each cabinet listed in KRS 12.250 of the pending investigation.
- (8) ***In the biennial report published under KRS 11A.110(13)***~~[On or before the fifteenth day of March of each year]~~, the commission shall, in the manner and form the commission determines, ***include***~~[publish]~~ a report containing statistical information on the registration statements filed under this section during the preceding ***biennium***~~[year]~~.
- (9) If an employer who engages an executive agency lobbyist, or a real party in interest on whose behalf the executive agency lobbyist was engaged is the recipient of a contract, grant, lease, or other financial arrangement pursuant to which funds of the state or of an executive agency are distributed or allocated, the executive agency or any aggrieved party may consider the failure of the real party in interest, the employer, or the executive agency lobbyist to comply with this section as a breach of a material condition of the contract, grant, lease, or other financial arrangement.
- (10) Executive agency officials may require certification from any person seeking the award of a contract, grant, lease, or financial arrangement that the person, his employer, and any real party in interest are in compliance with this section. Section 2. KRS 11A.216 is amended to read as follows:
 - (1) Each executive agency lobbyist, employer, and real party in interest shall file with the commission, with the updated registration statement required by KRS 11A.211(2), a statement of expenditures as specified in subsections (2) and (3) of this section. An executive agency lobbyist shall file a separate statement of expenditures under this section for each employer engaging him.
 - (2) (a) In addition to the information required by paragraph (b) of this subsection, a statement filed by an executive agency lobbyist shall show the total amount of expenditures made by the lobbyist during the reporting period covered by the statement by the executive agency lobbyist.
 - (b) 1. If, during a ***fiscal***~~[calendar]~~ year, the real party in interest, the employer or any executive agency lobbyist he engaged made expenditures to, or on behalf of a

particular elected executive official, the secretary of a cabinet listed in KRS 12.250, a particular executive agency official, or a particular member of the staff of any of those officials, the real party in interest, employer or executive agency lobbyist also shall state the name of the official or employee on whose behalf the expenditures were made, the total amount of the expenditures made, a brief description of the expenditures made, and the approximate date the expenditures were made.

2. Expenditures shall be reported on the expenditure statement for the reporting period that includes the date on which the expenditure was made.
- (3) (a) In addition to the information required by subsection (2)(b) of this section, a statement filed by a real party in interest or an employer shall show the total amount of expenditures during the period covered by the statement. As used in this subsection, "expenditures" does not include the expenses of maintaining office facilities or support services for executive agency lobbyists.
- (b) An employer or real party in interest shall not be required to show any expenditure on a statement filed under this subsection if the expenditure is reported on a statement filed under subsection (2)(a) or (b) of this section by an executive agency lobbyist engaged by the employer.
- (4) Any statement required to be filed under this section shall be filed at the times specified in KRS 11A.211. Each statement shall cover expenditures made during the *prior fiscal year*~~{six (6) calendar month period that ended on the last day of the month immediately preceding the month in which the statement is required to be filed}~~.
- (5) If it is impractical or impossible for an executive agency lobbyist, employer, or real party in interest to determine exact dollar amounts or values of expenditures, reporting of good faith estimates, based on reasonable accounting procedures, constitutes compliance with this section.
- (6) Executive agency lobbyists, employers, and real parties in interest shall retain receipts or maintain records for all expenditures that are required to be reported pursuant to this section. These receipts or records shall be maintained for a period ending on the *thirtieth*~~{thirty-first}~~ day of *June*~~{December}~~ of the second *fiscal*~~{calendar}~~ year after the year in which the expenditure was made.
- (7) At least ten (10) days before the date on which the statement is filed, each employer, executive agency lobbyist, or real party in interest who is required to file an expenditure statement under subsection (2)(b) of this section shall deliver a copy of the statement, or the portion showing the expenditure, to the official or employee who is listed in the statement as having received the expenditure or on whose behalf it was made.

Section 3. KRS 11A.221 is amended to read as follows:

- (1) Any executive agency lobbyist who has had any financial transaction with, or for the benefit of, an 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 those officials shall describe the details of the transaction, including the name of the official or employee, the purpose and nature of the transaction, and the date it was made or entered into, in a statement filed with the commission with the updated registration statement required by KRS 11A.211(2). Each

statement shall describe each financial transaction that occurred during the *prior fiscal year*~~[six (6) calendar month period that ended on the last day of the month immediately preceding the month in which the statement is required to be filed].~~

- (2) Except as provided in subsection (5) of this section, any employer who has had any financial transaction with or for the benefit of an 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 those officials shall describe the details of the transaction, including the name of the official or employee, the purpose and nature of the transaction, and the date it was made or entered into, in a statement filed with the commission with the updated registration statement required by KRS 11A.211(2). The statement shall be filed at the times specified in KRS 11A.211. Each statement shall describe each financial transaction that occurred during the *prior fiscal year*~~[six (6) calendar month period that ended on the last day of the month immediately preceding the month in which the statement is required to be filed].~~
- (3) Except as provided in subsection (6) of this section, any real party in interest who has had any financial transaction with or for the benefit 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 those officials shall describe the details of the transaction, including the name of the official or employee, the purpose and nature of the transaction, and the date it was made or entered into, in a statement filed with the commission with the updated registration statement required by KRS 11A.211(2). The statement shall be filed at the times specified in KRS 11A.211. Each statement shall describe each financial transaction that occurred during the *prior fiscal year*~~[six (6) calendar month period that ended on the last day of the month immediately preceding the month in which the statement is required to be filed].~~
- (4) At least ten (10) days before the date on which the statement is filed, each employer, executive agency lobbyist, or real party in interest who is required to file a statement describing a financial transaction under this section shall deliver a copy of the statement to the official or employee with whom or for whose benefit the transaction was made.
- (5) An employer shall not be required to file any statement under this section or to deliver a copy of the statement to an official or employee with whom or for whose benefit the transaction was made if the financial transaction to which the statement pertains is reported by an executive agency lobbyist engaged by the employer.
- (6) A real party in interest shall not be required to file any statement under this section or to deliver a copy of the statement to an official or employee with whom or for whose benefit the transaction was made if the financial transaction to which the statement pertains is reported by an executive agency lobbyist who is acting on behalf of the real party in interest.

Section 4. KRS 11A.241 is amended to read as follows:

- (1) The commission shall keep on file the statements required by KRS 11A.211, 11A.216, and 11A.221. These statements are public records and open to public inspection, and the commission shall computerize them so the information contained in them is readily accessible to the general public. The commission shall provide copies of the statements to the public on request and may charge a reasonable fee not to exceed the cost of copying and delivering the statement.
- (2) Not later than the last day of ~~February and~~ August of each year, the commission shall compile from the registration statements filed with it a complete and updated list of registered

executive agency lobbyists and their employers, and real parties in interest and distribute the list to each elected executive branch official and the secretary of each cabinet listed in KRS 12.250, who shall distribute the list to the appropriate personnel under their jurisdiction. The commission shall provide copies of the list to the public upon request and may charge a reasonable fee not to exceed the cost of copying and delivering the list.

- (3) The commission shall maintain a list of all executive agency lobbyists. The commission shall provide copies of the list to the public on request and may charge a reasonable fee not to exceed the cost of copying and delivering the document.
- (4) The commission shall prescribe and make available an appropriate form for the filings required by KRS 11A.211, 11A.216, and 11A.221. The form shall contain the following notice in boldface type: "ANY PERSON WHO KNOWINGLY FILES A FALSE STATEMENT IS IN VIOLATION OF STATE LAW AND SUBJECT TO FINES AND OTHER PENALTIES."
- (5) Any rules adopted by the commission to implement KRS 11A.201 to 11A.246 shall be adopted by administrative regulations promulgated in accordance with KRS Chapter 13A.
- (6) The commission shall publish a handbook that explains in clear and concise language the provisions of KRS 11A.201 to 11A.246 and make it available free of charge to executive agency lobbyists, employers, real parties in interest, and any other interested persons.

Section 5. 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;
 - (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 (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 ; *and*
- (18) ***"Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public.***

Section 6. KRS 11A.045 is amended to read as follows:

- (1) No public servant, his spouse, or dependent child knowingly shall accept tangible gifts or gratuities totaling a value greater than twenty-five dollars (\$25) in a single calendar year, or travel expenses, meals, alcoholic beverages, lodging or honoraria of any value, from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. The following items are exempt:
- (a) Coffee, soft drinks, pastries, hors d'oeuvres, or similar refreshments;
 - (b) Food consumed at a public event to which twenty-five (25) or more individuals are in attendance if that event is also open to participants other than public servants and members of the donor's industry;
 - (c) Meals, beverages, and free admission to an event if the public servant, as a part of his official duty, is a speaker or has a significant role in the program;
 - (d) A campaign contribution to an employee's own campaign if in compliance with KRS Chapters 121 and 121A and all other campaign finance laws;
 - (e) A gift from a family member who is not acting as an intermediary for a person from whom the gift would be otherwise prohibited;
 - (f) Food, clothing, and shelter in times of natural disaster or other emergency;
 - (g) Door prizes, if also open to persons other than public servants and members of the donor's industry and if all participants have an equal chance of receiving the prize;
 - (h) Gifts which are modest, reasonable, and customary, received on special occasions such as marriage or retirement;
 - (i) Awards of modest and reasonable value which are publicly received in recognition of public or charitable service, such as plaques;
 - (j) Prizes awarded based solely on skill, such as those received in golf or tennis tournaments, if those tournaments are open to participants other than public servants and members of the donor's industry;
 - (k) Meals at conferences or seminars which are included as part of the dues paid or registration fee and which are available to all attendees; and
 - (l) A single copy of a textbook received by an educator for review.

- (2) *Nothing in KRS Chapter 11A shall prohibit or restrict the allocation of or acceptance by a public servant of a ticket for admission to a sporting event if the ticket or admission is paid for by the public servant at face value or is paid for at face value by the individual to whom the ticket is allocated.*
- (3) Nothing in KRS 11A.001 to 11A.110 shall prohibit or restrict the acceptance by a public servant of the Cabinet for Economic Development or by any other public servant working directly with the cabinet on an economic incentive package of anything of economic value as a gift or gratuity, if the gift or gratuity:
- (a) Was not solicited by the public servant;
 - (b) Was accepted by the public servant in the performance of his or her official duties and in compliance with guidelines to be established by the Kentucky Economic Development Partnership which shall include requirements that all gifts or gratuities of a reportable value under KRS 11A.050(3)(k) be registered with the Kentucky Economic Development Partnership and with the Executive Branch Ethics Commission and that all tangible property with a value in excess of twenty-five dollars (\$25), other than food and beverages consumed on the premises, shall be turned over to the Cabinet for Economic Development within thirty (30) days of receipt. In filing reports of gifts or gratuities with the Executive Branch Ethics Commission, the Cabinet for Economic Development may delete information identifying the donors if the cabinet believes identification of the donors would damage economic development; and
 - (c) Was not accepted under circumstances which would create a violation of KRS Chapter 521.

Approved April 26, 2000