

CHAPTER 162**(HB 387)**

AN ACT relating to the Executive Branch Code of Ethics.

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

➔Section 1. KRS 11A.080 is amended to read as follows:

- (1)
 - (a) Upon a complaint signed under penalty of perjury by any person, or upon its own motion, the commission shall conduct a preliminary investigation of any alleged violation of this chapter.
 - (b) The preliminary investigation shall begin not later than ten (10) days after the next commission meeting following the receipt of the sworn complaint, or, if the investigation is initiated by the commission's own motion, not later than ten (10) days after the date of the adoption of the motion.
 - (c) Within ten (10) days of the commencement of the preliminary investigation, the commission shall forward a copy of the complaint, if one has been filed, or a statement of possible violations being investigated, and a general statement of the applicable law to the person alleged to have committed a violation.
- (2) All commission proceedings and records relating to a preliminary investigation shall be confidential until a final determination is made by the commission, except:
 - (a) The commission may turn over to the Attorney General, the United States Attorney, or the Commonwealth's attorney of the jurisdiction in which the offense allegedly occurred, evidence which may be used in criminal proceedings or, at its discretion, may at any time turn over to the Personnel Board,~~or~~ the Auditor of Public Accounts, or **any other agency with jurisdiction to review, audit, or investigate the alleged offense**~~both~~, evidence which may be used by ~~either or both of~~ those agencies for investigative purposes;
 - (b) If the alleged violator publicly discloses the existence of a preliminary investigation, the commission may publicly confirm the existence of the inquiry and, in its discretion, make public any documents which were issued to either party;
 - (c) If the matter being investigated was referred to the commission from another state agency, the commission may inform the referring state agency of the status of any preliminary investigation and of any action taken on the matter.
- (3) If the commission determines in the preliminary investigation that the facts are not sufficient to constitute a violation of this chapter, the commission shall immediately terminate the investigation and notify in writing the complainant, if any, and the person alleged to have committed a violation. The commission may confidentially inform the alleged violator of potential violations and provide information to ensure future compliance with the law. If the alleged violator publicly discloses the existence of such action by the commission, the commission may confirm the existence of the resolution and, in its discretion, make public any documents which were issued to the alleged violator.
- (4) If the commission, during the course of the preliminary investigation, finds probable cause to believe that a violation of this chapter has occurred, the commission may, upon majority vote:
 - (a) Due to mitigating circumstances such as lack of significant economic advantage or gain by the alleged violator, lack of significant economic loss to the state, or lack of significant impact on public confidence in government, in writing, confidentially reprimand the alleged violator for potential violations of the law and provide a copy of the reprimand to the alleged violator's appointing authority, if any. If the alleged violator publicly discloses the existence of such an action, the commission may confirm the existence of the action and, in its discretion, make public any documents which were issued to the alleged violator; or
 - (b) Initiate an administrative proceeding to determine whether there has been a violation.

➔Section 2. 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 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) Each employer of one (1) or more executive agency lobbyists, and each real party in interest, shall pay a registration fee of **five hundred (\$500) dollars**~~one hundred twenty five dollars (\$125)~~ upon the filing of an updated registration statement. All fees collected by the commission under the provisions of this subsection shall be deposited in the State Treasury in a trust and agency fund account to the credit of the commission. These agency funds shall be used to supplement general fund appropriations for the operations of the commission and shall not lapse. No part of the trust and agency fund account shall revert to the general funds of this state.
- (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 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), the commission shall, in the manner and form the commission determines, include a report containing statistical information on the registration statements filed under this section during the preceding biennium.
- (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.

Signed by Governor April 10, 2017.