

AN ACT relating to the Executive Branch Code of Ethics and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 11A IS CREATED TO READ AS FOLLOWS:

**A public servant shall report to the Executive Branch Ethics Commission promptly and accurately any suspected violations to this chapter. To the fullest extent possible, any such reports shall be treated confidentially in accordance with the provisions of Section 9 of this Act. A public servant who makes a good-faith report of a violation of this chapter shall be protected from reprisal in accordance with KRS 61.102.**

➔Section 2. KRS 11A.010 is amended to read as follows:

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

- (1) **"Appointing authority" has the same meaning as in KRS 18A.005(1);**
- (2) "Business" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted, whether or not for profit;
- (3) **"Candidate" means a person who has officially filed candidacy papers or who has been nominated by the person's political party, in accordance with KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in paragraphs (a) to (g) of subsection (18) of this section;**
- (4)~~(2)~~ "Commission" means the Executive Branch Ethics Commission;
- (5)~~(3)~~ "Compensation" means any money, thing of value, **financial gain**, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself, **herself**, or another;
- (6) **"Directly involved" means to work on something personally or to supervise an**

**individual who works on something personally;**

**(7) "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;**

**(8)**~~(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;

**(9)**~~(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; "gift" does not include gifts from family members, campaign contributions, or door prizes available to the public;

**(10)**~~(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, **financial gain**, or any other form of compensation or any combination ~~thereof~~;

**(11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(23) or any person employed as an executive agency lobbyist as defined in subsection (8) of Section 10 of this Act;**

**(12) "Lobbyist's principal" means the entity on whose behalf the lobbyist promotes, opposes, or acts;**

**(13) "Matter" means any measurable case, litigation, project, decision, grant, proceeding, application, determination, contract, claim, investigation, charge, or legislative bill;**

**(14)**~~(7)~~ "Officer" means all major management personnel in the executive branch of

state government, including ***but not limited to*** the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, executive directors, 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, Kentucky Teachers' Retirement System board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Kentucky Occupational Safety and Health Review Commission, the Kentucky Board of Education, the Council on Postsecondary Education, and any person who, ***through*** ~~holds~~ a personal service contract, ***or any other contractual employment arrangement, performs*** ~~to perform~~ on a full-time, ***nonseasonal*** basis ~~for a period of time not less than six (6) months~~ a function of any ***major management*** position ~~listed in this subsection~~;

~~(15)~~~~(8)~~ "Official duty" means any responsibility imposed on a public servant by virtue of his or her position in the state service;

**(16) "Person" means an individual, proprietorship, firm, partnership, limited partnership, joint venture, joint stock company, syndicate, business or statutory trust, donative trust, estate, company, corporation, limited liability company, association, club, committee, organization, or group of persons acting in concert;**

**(17) "Public agency" means any governmental entity;**

~~(18)~~~~(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) All employees in the executive branch of state government including officers as defined in subsection ~~(14)~~~~(7)~~ of this section~~and merit employees~~;
- (i) Any person who through any contractual arrangement is employed to perform on a full-time, nonseasonal basis a function of a position within an executive branch agency; and
- (j) Any person or position so designated by executive order of the Governor;
- (19) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else;
- (20) "Sporting event" means any professional or amateur sport, athletic game, contest, event or race involving machines, persons, or animals, that is viewed by the public and admission tickets are offered for sale; and
- ~~(21)~~~~(10)~~ "State 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 or her appointing authority is employed, unless his or her 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(23) 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) 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 or she has authorized by law to act on behalf of the agency with respect to employee appointments;~~
- (17) ~~"Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else;~~
- (18) ~~"Directly involved" means to work on personally or to supervise someone who works on personally;~~
- (19) ~~"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; and~~
- (20) ~~"Person" means an individual, proprietorship, firm, partnership, limited partnership, joint venture, joint stock company, syndicate, business or statutory trust, donative trust, estate, company, corporation, limited liability company, association, club, committee, organization, or group of persons acting in concert].~~

➔Section 3. KRS 11A.020 is amended to read as follows:

- (1) ~~A~~~~[No]~~ public servant, alone~~[by himself]~~ or through others, shall **not** knowingly **use** **or attempt to use**:
- (a) ~~[Use or attempt to use ]~~His **or her** influence in any matter which involves a substantial conflict between his **or her** personal or private interest and his **or her** duties in the public interest;

- (b) ~~{Use or attempt to use }~~Any means to influence a public agency in derogation of the public interest~~{state at large}~~;
- (c) ~~{Use }~~His or her official position or office to obtain financial gain for the public servant~~{himself}~~ or any members of the public servant's family; or
- (d) ~~{Use or attempt to use }~~His or her official position to secure or create privileges, exemptions, advantages, or treatment for the public servant~~{himself}~~ or others in derogation of the public interest~~{at large}~~.
- (2) A public servant~~{If a public servant appears before a state agency, he}~~ shall avoid all conduct which might in any way lead members of the general public to conclude that he or she is using his or her official position to further his or her professional or private interest in derogation of the public interest.
- (3) *A public servant is employed by the agency by which his or her appointing authority is employed, unless his or her 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*~~{When a public servant abstains from action on an official decision in which he has or may have a personal or private interest, he shall disclose that fact in writing to his superior, who shall cause the decision on these matters to be made by an impartial third party}~~.
- (4) The prohibitions imposed by subsection (1)(c) 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 4. KRS 11A.030 is amended to read as follows:

**(1) A public servant shall abstain from action in a matter or on an official decision if he or she has or may have a personal or private interest or conflict of interest.**

**(2)** In determining whether to abstain ~~from action on an official decision because of a possible conflict of interest~~, a public servant should consider the following guidelines:

**(a)**~~(1)~~ Whether a substantial threat to his **or her** independence of judgment has been **or will be** created by his **or her** personal or private interest;

**(b)**~~(2)~~ **Whether his or her participation in the matter or the decision-making process is likely to have a significant effect**~~The effect of his participation~~ on public confidence in the integrity of the executive branch;

**(c)**~~(3)~~ Whether his **or her** participation is likely to have any significant effect on the disposition of the matter;

**(d)**~~(4)~~ The need for his **or her** particular contribution, such as special knowledge of the subject matter, to the effective functioning of the executive branch; or

**(e)**~~(5)~~ Whether the official decision will affect him **or her** in a manner differently from the public or will affect him **or her** as a member of a business, profession, occupation, or group to no greater extent generally than other members of such business, profession, occupation, or group.

**(3)** A public servant may request an advisory opinion from the Executive Branch Ethics Commission in accordance with the commission's rules of procedure.

**(4) When a public servant abstains from action in a matter or on an official decision**

*when he or she has or may have a personal or private interest or a conflict of interest, he or she shall disclose that fact in writing to his or her appointing authority, who shall direct that the decision on these matters be made by an impartial third party.*

➔Section 5. KRS 11A.040 is amended to read as follows:

- (1) A public servant, in order to further his *or her* own economic interests, or those of any other person, shall not knowingly disclose or use confidential information acquired in the course of his *or her* official duties.
- (2) A public servant shall not knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in his *or her possession or control*~~[hands]~~ or to be raised through any state agency.
- (3) A 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 herself*, or with any business in which he *or she* or a member of his *or her* family has any interest greater than five percent (5%) of the total value~~[thereof]~~.
- (4) A public servant shall not knowingly *alone*~~[himself]~~ or through any business in which he *or she* owns or controls an interest of more than five percent (5%), or by any other person for his *or her* use or benefit or on his *or her* 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 *or she* is employed or which he *or she* supervises, *notwithstanding*~~[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



- as benefits* 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 *or she* 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; or
- (e) Sales of craft items to a state park by interim state employees designated as craftspersons under KRS 148.257.
- (5) A public servant shall not knowingly accept compensation, other than that provided by law for public servants, for performance of his *or her* official duties without the prior approval of the commission. *Nothing in this section shall prohibit acceptance by a public servant of an award for exceptional service up to one hundred dollars (\$100) in a single calendar year, so long as acceptance by the public servant of the award does not violate the provisions of Section 6 of this Act.*
- (6) A former officer or public servant listed in *paragraphs (a) to (g) of subsection (18) of Section 2 of this Act*~~[KRS 11A.010(9)(a) to (g)]~~ shall not, within six (6) months of termination of his *or her* employment, *alone*~~[knowingly by himself]~~ or through any business in which he *or she* owns or controls an interest of at least five percent (5%), or by any other person for his *or her* use or benefit or on his *or her* account, *knowingly* undertake, execute, hold, bid on, negotiate, or *benefit*~~[enjoy]~~, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency *where*~~[by which]~~ he *or she* was employed. This provision shall not apply to:
- (a)* 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.]~~

**(b)** Purchases from a state agency that are available on the same terms to the general public or that are made at public auction; ~~**or**[- This provision shall not apply to.]~~

**(c)** Former officers of the Department of Public Advocacy whose continued representation of clients is necessary in order to prevent an adverse effect on the client.

(7) A present or former officer or public servant listed in **paragraphs (a) to (g) of subsection (18) of Section 2 of this Act**~~[KRS 11A.010(9)(a) to (g)]~~ shall not, within six (6) months following termination of his **or her** office or employment, **knowingly** 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 **or she** was directly involved during the last thirty-six (36) months of his **or her** tenure. This provision shall not prohibit:

**(a)** An individual from returning to the same business, firm, occupation, or profession in which he **or she** was involved prior to taking office or beginning his **or her** term of employment, or for which he **or she** received, prior to his **or her** state employment, a professional degree or license, provided that, for a period of six (6) months, he **or she** personally refrains from working on any matter in which he **or she** was directly involved during the last thirty-six (36) months of his **or her** tenure in state government;~~[- This subsection shall not prohibit]~~

**(b)** The performance of ministerial functions, including but not limited to filing tax returns, filing applications for permits or licenses, or filing incorporation papers; ~~**or**[-, nor shall it prohibit.]~~

**(c)** 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 or she was directly involved during the last thirty-six (36) months of his or her tenure for a period of one (1) year after the latter of:
- The date of leaving office or termination of employment; or
  - 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 or her tenure, for a period of one (1) year after the latter of:
- The date of leaving office or termination of employment; or
  - The date the term of office expires to which the public servant was elected.
- (10) Without the approval of his or her appointing authority, a public servant shall not accept outside employment or perform work in exchange for compensation 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 or she supervises, unless the outside employer's relationship with the state agency is limited to the receipt of entitlement funds. The appointing authority or his or her designee shall:
- ~~[The appointing authority shall ]~~Review administrative regulations promulgated in accordance with~~[established under]~~ KRS Chapter 11A when deciding whether to approve outside employment or work in exchange for compensation for a public servant;~~[ ]~~
  - ~~[The appointing authority shall ]~~Not approve outside employment or work in exchange for compensation 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 work in exchange for~~[or]~~ compensation; and~~[ ]~~
  - ~~[The appointing authority, ]~~If applicable,~~[ shall ]~~ file annually on July

15~~quarterly~~ with the Executive Branch Ethics Commission a list of all employees who have been approved for outside employment or work in exchange for compensation during the fiscal year along with the name of the outside employer or the source of the compensation of each.

- (11) (a) A public servant shall not negotiate for employment with a person or business, or an association that represents persons or businesses, that has done business with or has been regulated by the agency where he or she works if the public servant is or has been directly involved in matters regarding the prospective employer in the past six (6) months, without first abstaining from involvement with the prospective employer; and
- (b) If a public servant desires to abstain from direct involvement in matters regarding a specific prospective employer that does business with or is regulated by the public servant's agency, the public servant shall obtain the written approval of his or her appointing authority to abstain from those matters prior to applying for or negotiating for employment with the prospective employer.

(12) 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 6. KRS 11A.050 is amended to read as follows:

- (1) Each officer ~~and~~ each public servant listed in **paragraphs (a) to (g) of subsection (18) of Section 2 of this Act** ~~[KRS 11A.010(9)(a) to (g), and each candidate]~~ shall file a statement of financial disclosure with the commission, as follows:
- (a) ~~Those~~ ~~[Each officer and each public servant listed in KRS 11A.010(9)(a) to (g)]~~ who **held their** ~~[occupies his]~~ position during any portion of a calendar year shall file the statement for that portion of the calendar year he **or she held** ~~[occupied]~~ the position on or before April 15 of the following year, whether or not he **or she** remains an officer or public servant ; ~~and~~ ~~[as listed in KRS 11A.010(9)(a) to (g).]~~
- (b) ~~Those~~ ~~[Each officer and public servant listed in KRS 11A.010(9)(a) to (g)]~~ who **did** ~~[does]~~ not remain an officer or public servant ~~[listed in KRS 11A.010(9)(a) to (g)]~~ for the entire calendar year shall file the statement for the portion of the calendar year that the person served as an officer or public servant ~~[listed in KRS 11A.010(9)(a) to (g)]~~. The statement shall be filed with the commission within thirty (30) days after the date the person no longer serves as an officer or public servant ~~[listed in KRS 11A.010(9)(a) to (g)]~~.
- (2) ~~Each~~ ~~[(e) — A]~~ candidate **for an office listed in paragraphs (a) to (g) of subsection (18) of Section 2 of this Act** shall file ~~a~~ ~~[the]~~ statement **of financial disclosure** reflecting the previous calendar year with the commission no later than:
- (a) February 15 **for those candidates who must file statements of candidacy by the end of January; and**
- (b) **September 15 for those candidates who must file statements of candidacy by the end of August.**
- ~~(3)~~ ~~[(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.

~~(4)~~~~(3)~~ The statement shall include the following information for the preceding calendar year:

- (a) Name, residential telephone number, business telephone number, alternate telephone number, business electronic mail address, personal electronic mail address, and entire residential and business address of filer;
- (b) Title of position or office that requires~~[whereby]~~ filing~~[is required]~~;
- (c) Any other occupations of filer and his or her spouse;
- (d) Positions held by the filer or his or her spouse in any business, and the name, ~~[and]~~ address, telephone number, and nature of the business;
- (e) Names, addresses, telephone numbers, and nature of any business~~[and addresses of all businesses]~~ in which the filer, his or her 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) The name and address of any source of gross income exceeding one thousand dollars (\$1,000) from any one (1) source to the filer, his or her spouse, or dependent children~~[child]~~, 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 or her spouse relating to matters of the state agency for which the filer works or supervises or of any other entity of state government for which the filer would serve in a decision-making capacity, including each source's name, ~~[and]~~ address, and telephone number;
- (h) Any representation or intervention for compensation by the filer or his or her spouse for any person or business before a state agency for which the filer works or supervises or before any entity of state government where~~[for which]~~ the filer would serve in a decision-making capacity, including the name, ~~[and]~~ address, and telephone number of the person or business and the nature

of the business;

- (i) All positions of a fiduciary nature held by the filer or his or her spouse in a business, including the name, ~~and~~ address, and telephone number of the business;
- (j) Information, including a street address or location, regarding any real property in which there is an interest of ten thousand dollars (\$10,000) or more held by the filer, his or her spouse, or dependent children;
- (k) Sources, including each source's name and address, of gifts of money or property with a retail value of more than two hundred dollars (\$200) from any one (1) source to the filer, his or her spouse, or dependent children, except those from a member of the filer's family; and
- (l) Identity, including addresses~~an address~~, of creditors owed more than ten thousand dollars (\$10,000), except debts arising from the purchase of consumer goods.

(5) Paragraphs (a) to (l) of ~~this~~ subsection (4) of this section shall not require disclosure of specific dollar amounts or of privileged information.

➔Section 7. KRS 11A.060 is amended to read as follows:

- (1) The Executive Branch Ethics Commission is ~~hereby~~ established.
- (2) The commission shall be composed of seven (7)~~five (5)~~ members appointed by the Governor. *Beginning with the terms of the commission members whose appointments expire after the effective date of this Act, members shall be nominated on a rotating basis, as follows:*
  - (a) The first and second members shall be appointed by the Governor;*
  - (b) The third member shall be appointed by the Governor from a list of three*  
*(3) nominees submitted by the Attorney General;*
  - (c) The fourth member to be appointed shall be appointed by the Governor*  
*from a list of three (3) nominees submitted by the Auditor of Public*

Accounts;

(d) The fifth member shall be appointed by the Governor from a list of three (3) nominees submitted by the Secretary of State;

(e) The sixth member shall be appointed by the Governor from a list of three (3) nominees submitted by the State Treasurer;

(f) The annual appointment of members shall then be repeated in accordance with the same nomination and appointment rotation procedure established in this subsection; and

(g) The seventh member to be appointed shall be appointed by the Governor from a list of three (3) nominees submitted by the Commissioner of Agriculture, Labor and Statistics.

(3) A vacancy in an unexpired term shall be filled for the remainder of the term in the same manner as the vacating member's position was filled under subsection (2) of this section.

~~(4)(3) Members of the commission shall serve staggered terms of four (4) years and until a successor is appointed. [Of the initial members appointed as provided in this section, one (1) member shall serve a term of one (1) year, one (1) member shall serve a term of two (2) years, one (1) member shall serve a term of three (3) years, and two (2) members shall be appointed for terms of four (4) years. Thereafter, all appointments shall be for four (4) years.]~~

~~(5)(4) At the first meeting of the commission held after August 1 each year, the commission shall elect from its membership a chair[chairman] and vice chair[chairman]. In the absence of the chair[chairman] or in the event of a vacancy in that position, the vice chair[chairman] shall serve as chair[chairman].~~

~~(6)(5) A member of the commission shall receive one hundred dollars (\$100) per day for attending meetings and shall be reimbursed for actual and necessary expenses incurred in the performance of his or her commission duties.~~



~~(7)(6)~~ All members shall be registered voters of the state.

~~(8)(7)~~ Members of the commission shall be removed by the Governor for cause only, ***which includes***~~[including]~~ substantial neglect of duty and inability to discharge the powers and duties of office.

~~(9)(8)~~ A quorum shall consist of ***four (4)***~~[three (3)]~~ or more members. An affirmative vote of three (3) or more members shall be necessary for commission action.

~~(10)(9)~~ The commission shall meet at the call of the ***chair***~~[chairman]~~ or a majority of its members.

~~(11)(10)~~ The commission shall be attached to the Finance and Administration Cabinet for administrative purposes only.

➔Section 8. KRS 11A.080 is amended to read as follows:

(1) ***The commission shall conduct preliminary investigations in the following manner:***

(a) ~~The~~~~[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 ***under the following circumstances:***

***1. A complaint signed under penalty of perjury by any person;***

***2. A referral from an appointing authority of a public agency; or***

***3. Upon the commission's own motion;***~~[-]~~

(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 a public agency referral***, 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; ***and***~~[-]~~

(c) Within ten (10) days of the commencement of the preliminary investigation, the commission shall forward a copy of the ***sworn*** 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:
1. 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, **or any other law enforcement agency with jurisdiction over the subject matter,** evidence which may be used in criminal proceedings; ~~or~~
  2. At its discretion, may at any time turn over to the Personnel Board or the Auditor of Public Accounts, or 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 person who brings the sworn complaint discloses the existence of a complaint prior to the commission initiating administrative proceedings, the commission may, in its discretion, dismiss the complaint at its next meeting without further review or proceedings; and**
- (d) If the matter being investigated was referred to the commission from **a public** ~~another state~~ agency, the commission may inform the referring **public** ~~state~~ agency of the status of any preliminary investigation and of any action taken on the matter; **however, the public agency shall not publicly disclose the existence of the referral unless the commission initiates**

**administrative proceedings.**

- (3) If the commission determines **after conducting**~~[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 **the**~~[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 **support the allegation**~~[believe]~~ that a violation of this chapter has occurred, the commission~~[may,]~~ upon majority vote **may**:
- (a) **Put in writing a confidential reprimand, instead of initiating a hearing, to the alleged violator for potential violations of the law and shall provide a copy of the reprimand to his or her appointing authority, if any, that this course of action was taken** due to mitigating circumstances such as lack of significant:
- 1.** Economic advantage or gain by the alleged violator;~~]; [lack of significant]~~
  - 2.** Economic loss to the state;~~]; [or [lack of significant]~~
  - 3.** 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].~~
- (b) ~~[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 ***if the alleged violator publicly discloses the existence of the action***; or

~~(c)~~~~(b)~~ Initiate an administrative proceeding to determine whether there has been a violation.

**(5) Any individual subject to the provisions of this chapter shall cooperate with any ongoing investigation. The individual may invoke any applicable evidentiary privilege.**

➔Section 9. KRS 11A.100 is amended to read as follows:

- (1) The provisions of KRS Chapter 13B shall apply to all commission administrative hearings.
- (2) All administrative hearings of the commission carried out ***in accordance with***~~pursuant to~~ the provisions of this section shall be public, unless the members vote to go into executive session in accordance with KRS 61.810.
- (3) The commission ***may***, upon a finding pursuant to an administrative hearing that there has been clear and convincing proof of a violation of this chapter~~, may~~:
  - (a) Issue an order requiring the violator to cease and desist ***from the conduct that is determined to be a*** violation;~~and~~
  - (b) Issue an order requiring the violator to file any report, statement, or other information as required by this chapter;~~and~~
  - (c) In writing, publicly reprimand the violator for~~potential~~ violations of the law and provide a copy of the reprimand to the alleged violator's ***current or former*** appointing authority, if any;~~and~~
  - (d) In writing, ***if the violator is a public servant***, recommend to the violator's appointing authority that the violator be removed or suspended from office or employment, ***including***~~and include~~ a recommendation for length ***of time that the violator should be prohibited from serving as a public servant or for the length*** of suspension, to be approved by the appointing authority, if any;

and

- (e) Issue an order requiring the violator to pay a civil penalty of not more than five thousand dollars (\$5,000) for each violation of this chapter.
- (4) **All penalties collected or received by the commission shall be paid into the State Treasury and credited to the trust and agency fund account described in subsection (5) of Section 11 of this Act.**
- (5) In addition to any other remedies provided by law, any violation of this chapter which has substantially influenced the action taken by any state agency in any particular matter shall be grounds for voiding, rescinding, or canceling the action ~~with~~<sub>on such</sub> terms as the interests of the state and innocent third persons require.
- ~~(6)~~<sub>(5)</sub> The commission shall refer to the Attorney General evidence of violations of KRS 11A.040 for prosecution. The Attorney General shall have responsibility for all prosecutions under the law and may request from the commission all evidence collected in its investigation. The commission may represent itself through ~~its~~<sub>the</sub> general counsel in all subsequent proceedings.
- (7) **An appointing authority may rely upon a finding by the commission that a public servant has violated the provisions of this chapter as cause for an agency to dismiss or otherwise discipline the public servant in accordance with the terms of KRS Chapter 18A. A certified copy of the commission's final determination shall serve as prima facie evidence of the violation. This subsection shall also apply to any public servant not subject to KRS Chapter 18A.**

→Section 10. 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, **herself**, 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:

1. 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]~~
2. 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; ~~or ["Expenditure" does not include]~~
3. 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 that ~~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 an arrangement, when ~~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 or her employer, a real party in interest, or a member of the immediate family of the executive agency lobbyist, his or her 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 or her 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 or her main purposes on a substantial basis. The term "executive agency lobbyist" shall also include placement agents and unregulated placement agents.

- (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 or her fiduciary capacity as a representative of his or her 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;



- (13) "Person" means an individual, proprietorship, firm, partnership, limited partnership, joint venture, joint stock company, syndicate, business or statutory trust, donative trust, estate, company, corporation, limited liability company, 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, to exercise~~and who exercises~~ administrative or supervisory authority, or to authorize~~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;
- (16) "Substantial basis" means contacts which are intended to influence a decision that involves one (1) or more disbursements of state funds in an amount of at least five thousand dollars (\$5,000) per year;
- (17) "Placement agent" means a third-party~~an~~ individual or firm who is compensated or hired by an investment manager~~employer or other real party in interest~~ for the purpose of influencing an executive agency decision regarding the investment of the Kentucky Retirement Systems or the Kentucky Teachers' Retirement System assets; and
- (18) "Unregulated placement agent" means a placement agent who is prohibited by federal securities laws and federal regulations~~promulgated thereunder~~ from receiving compensation for soliciting a government agency.

➔Section 11. 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 ***does not*** need ***to*** ~~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 ***relating*** 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, ***the following***: ~~;~~
- (a) An updated registration statement that confirms the continuing existence of each engagement described in an initial registration statement; ~~and that~~
- (b) Lists ***of*** 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~~
- (c) ***Statements*** of expenditures required to be filed ***in accordance with*** ~~by~~ KRS 11A.216; and ~~any~~
- (d) Details of financial ***transactions*** ~~transaction~~ required to be filed ***in accordance with*** ~~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 **paragraphs (a), (b), (c), and (d) of** subsection (2) of this section, which shall contain the information required by **paragraphs (a), (b), (c), and (d) of** subsection (2) of this section regarding all executive agency lobbyists engaged by the employer.
- (4) (a) A change in any information required by **paragraphs (a), (b), (c), and (d) of** subsection (1) **of this section**~~[(a), (b), (c), (d),]~~ or **paragraphs (a), (b), (c), and (d) of subsection** (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 two hundred fifty dollars (\$250)**~~[of 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 **fund**~~[funds]~~ of this state.
- (6) Upon registration pursuant to this section, an executive agency lobbyist shall be issued a card annually by the commission **confirming that**~~[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 **in accordance with**~~[under]~~ this section to determine if the statement contains all of the required information. If the commission determines the registration statement:

**(a)** 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.]~~

**(b)** **Was not filed by an executive agency lobbyist, employer, or real party in interest, the commission shall send written notification of the failure to file by certified mail to the last address that the commission has on file for the executive agency lobbyist, employer, or real party in interest.**

**(8)** **(a)** Any person **described in paragraphs (a) and (b) of subsection (7) of this section**~~[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.

**(b)** If any person **described in paragraphs (a) and (b) of subsection (7) of this section**~~[who]~~ receives a notice **and**~~[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.

**(c)** If the commission initiates an investigation pursuant to **paragraph (b) of 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.

**(9)**~~[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.

~~(10)~~~~(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.

~~(11)~~~~(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 or her employer, and any real party in interest are in compliance with this section.

➔Section 12. KRS 11A.990 is amended to read as follows:

- (1) Any person who violates KRS 11A.040 shall be guilty of a Class D felony. In addition:
  - (a) The judgment of conviction for a violation of KRS 11A.040(2) shall state~~[recite]~~ that the offender is disqualified to hold public office~~[thereafter]~~; and
  - (b) Any person who violates KRS 11A.040(1) to ~~(6)~~~~(5)~~ shall be judged to have forfeited any employment, or constitutional or statutory office he or she holds, provisions of KRS Chapter 18A to the contrary notwithstanding.
- (2) Any officer, public servant, or candidate required to file a statement of financial disclosure under KRS 11A.050 who does not file the statement by a date specified in that section shall have his or her salary withheld from the sixteenth~~[first]~~ day of noncompliance until he or she shall have completed the action required by law. The

amount withheld shall be deducted from his or her overall pay and allowances and shall be recoverable upon the filing of the statement of financial disclosure. The commission may grant a reasonable extension of time for filing a statement of financial disclosure for good cause shown.

- (3) Any person who maliciously files with the commission a false charge of misconduct on the part of any public servant or other person shall be fined not to exceed five thousand dollars (\$5,000), or imprisoned in a county jail for a term not to exceed one (1) year, or both.
- (4) Prosecution for violation of any provision of KRS 11A.040 shall not be commenced after four (4) years have elapsed from the date of the violation.
- (5) Any executive agency lobbyist, employer, or real party in interest who violates any provision in KRS 11A.206 shall for the first violation be subject to a civil penalty not to exceed five thousand dollars (\$5,000). For the second and each subsequent violation, he or she shall be guilty of a Class D felony.
- ~~(6)~~~~(5)~~ Any executive agency lobbyist, employer, or real party in interest who fails to file the initial registration statement or updated registration statement required by KRS 11A.211 or 11A.216, or who fails to remedy a deficiency in any filing in a timely manner, may be fined by the commission an amount not to exceed one hundred dollars (\$100) per day, up to a maximum total fine of one thousand dollars (\$1,000).
- ~~(7)~~~~(6)~~ Any executive agency lobbyist, employer, or real party in interest who intentionally fails to register, or who intentionally files an initial registration statement or updated registration statement required by KRS 11A.211 or 11A.216 that~~which~~ he or she knows to contain false information or to omit required information shall be guilty of a Class D felony.
- ~~(8)~~~~(7)~~ An executive agency lobbyist, employer, or real party in interest who files a false statement of expenditures or details of a financial transaction under KRS

11A.221 or 11A.226 is liable in a civil action to any official or employee who sustains damage as a result of the filing or publication of the statement.

~~(9)~~~~(8)~~ Violation of KRS 11A.236 is a Class D felony.

➔Section 13. KRS 18A.045 is amended to read as follows:

- (1) There is ~~hereby~~ created a Personnel Board ~~that~~~~in which~~ shall be vested with the constitutional powers and responsibilities of officers of the Commonwealth. The board shall consist of seven (7) members, five (5) of whom shall be appointed by the Governor as provided in KRS 18A.050. Two (2) members of the board shall be elected by classified employees as provided in KRS 18A.0551.
- (2) Personnel Board members shall not accept gifts as provided in KRS 11A.045(1), benefit under any contract or agreement as provided in KRS 11A.040~~(5)~~~~(4)~~, or fail to disclose to other members of the board any direct or indirect conflict of interest as described in Section 6 of this Act~~KRS 11A.005(2)(c)~~.
- (3) Any person retaliating in any manner and any person ordering retaliation against a classified employee or a member of his or her family because he or she has participated in an election to the board, either by being a candidate or voting for a candidate, shall be subject to the provisions of KRS 18A.990.

➔Section 14. KRS 11A.045 is amended to read as follows:

- (1) No public servant, his spouse, or dependent child knowingly shall accept any gifts or gratuities, including travel expenses, meals, alcoholic beverages, and honoraria, totaling a value greater than twenty-five dollars (\$25) in a single calendar year 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 ~~where~~~~in which~~ the public servant is employed or which he or she supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. Nothing contained in this subsection shall prohibit the commission from authorizing exceptions to this

subsection where ~~an[such]~~ exemption would not create an appearance of impropriety.

- (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~~(4)~~~~(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.