

AN ACT relating to establishing a state ombudsman.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Agency" means any permanent state or local governmental entity, department, organization, or institution, and any officer, employee, or member thereof acting or purporting to act in the exercise of the officer's, employee's, or member's official duties, except:

1. Judiciary and its staff;

2. The General Assembly, its committees, and its staff; and

3. The Governor and Lieutenant Governor and their staff; and

(b) "Administrative act" means any action, omission, decision, recommendation, practice, or procedure but does not include the preparation or presentation of legislation.

(2) The office of ombudsman is established as a nonpartisan office. The Legislative Research Commission shall employ an ombudsman who shall hold office at the pleasure of the Commission. The salary of the ombudsman shall be determined by the Commission.

(3) The ombudsman shall serve a term for a period of four (4) years. An ombudsman may be reappointed but may not serve for more than two (2) terms or eight (8) consecutive years. No person shall serve as ombudsman within two (2) years of the last day on which the person served as a member of the General Assembly, or while the person is a candidate or holds any other state or local office, serves on any state board or commission, or is engaged in any other occupation for reward or profit.

(4) If the ombudsman dies, resigns, or becomes ineligible to serve, or is removed or

suspended from office, the deputy to the ombudsman becomes the acting ombudsman until a new ombudsman is appointed for a full term.

(5) The ombudsman may appoint a deputy and other officers and employees as may be necessary to carry out the provisions of this section. All employees, including the deputy, shall be hired by the ombudsman and shall serve at the ombudsman's pleasure.

(6) The ombudsman and full-time staff shall be entitled to participate in the Kentucky Employees Retirement System in accordance with KRS 61.525.

(7) The ombudsman may delegate to the ombudsman's appointees any duties except those specified in subsections (14) and (15) of this section. During the absence of the ombudsman or the ombudsman's temporary inability to exercise and discharge the powers and duties of the office, the powers and duties as contained in subsections (14) and (15) of this section shall devolve upon the deputy.

(8) The ombudsman shall establish procedures for receiving and processing requests, conducting investigations, and reporting findings. However, the ombudsman may not levy fees for the submission or investigation of requests.

(9) The ombudsman shall have jurisdiction to investigate the official acts of any governmental agency as defined in this section and other requests filed by citizens and staff.

(10) If the ombudsman decides not to investigate a request, he or she shall inform both involved parties of that decision and shall state the reasons in a writing mailed to the parties and transmitted electronically if possible. If the ombudsman decides to investigate a request, he or she shall also provide written notification by mail, and electronically if possible, to both parties of the intention to investigate.

(11) Requests may be filed for any action of an agency which the requestor believes to be:

- (a) Contrary to law;
- (b) Unreasonable, unfair, oppressive, or unnecessarily discriminatory, even though in accordance with law;
- (c) Based on mistake of fact;
- (d) Based on improper or irrelevant grounds;
- (e) Unaccompanied by an adequate statement of reasons;
- (f) Performed in an inefficient manner; or
- (g) Otherwise erroneous reasons.

The ombudsman may investigate to find an appropriate remedy.

(12) In an investigation, the ombudsman may make inquiries and obtain information as the ombudsman thinks fit, enter without notice to inspect the premises of an agency, and hold private hearings.

(13) The ombudsman shall maintain confidentiality with respect to all matters and the identities of the requestor or witnesses coming before the ombudsman except so far as disclosures may be necessary to enable the ombudsman to carry out the ombudsman's duties and to support the ombudsman's recommendations.

(14) Having the same powers as an arbitrator under KRS 417.110, the ombudsman may:

(a) Compel at a specified time and place, by a subpoena, the appearance and sworn testimony of any person who the ombudsman reasonably believes may be able to give information relating to a matter under investigation;

and

(b) Compel any person to produce documents, papers, or objects which the ombudsman reasonably believes may relate to a matter under investigation.

The ombudsman may bring suit in an appropriate state court to enforce these powers.

(15) The ombudsman shall submit findings and recommendations to the agency at the

conclusion of an investigation. The ombudsman may request the agency to notify the ombudsman, within a specified time, of any action taken on the ombudsman's recommendations.

(16) Within ninety (90) days following the conclusion of an investigation, the ombudsman shall make available the findings if any, and the recommendations to resolve the issue. The ombudsman shall include with this opinion any reply made by the agency.

(17) At the conclusion of an investigation, the ombudsman shall notify the requesting party of the actions taken by the ombudsman and the response of the agency or individual reported for wrongdoing.

(18) If the ombudsman has a reasonable basis to believe a breach of duty or misconduct by any officer or employee of an agency has occurred, the ombudsman may refer the matter to the appropriate authorities.

(19) The ombudsman shall submit to the General Assembly and the public an annual report discussing the ombudsman's activities during the past calendar year no later than the third Monday of the following January.

(20) The ombudsman or his or her staff shall establish and maintain a Web site containing information on contacting the ombudsman and detailed instructions on how to file a request in person, on the phone, by mail, or online.

(21) The ombudsman or his or her staff shall post all opinions and recommendations to the Web site within ninety (90) days of resolution if any wrongdoing is found to have occurred.