

1 AN ACT relating to executive branch ethics.

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

3 ➔Section 1. KRS 11A.040 is amended to read as follows:

- 4 (1) A public servant, in order to further his own economic interests, or those of any
5 other person, shall not knowingly disclose or use confidential information acquired
6 in the course of his official duties.
- 7 (2) A public servant shall not knowingly receive, directly or indirectly, any interest or
8 profit arising from the use or loan of public funds in his hands or to be raised
9 through any state agency.
- 10 (3) A public servant shall not knowingly act as a representative or agent for the
11 Commonwealth or any agency in the transaction of any business or regulatory
12 action with himself, or with any business in which he or a member of his family has
13 any interest greater than five percent (5%) of the total value thereof.
- 14 (4) A public servant shall not knowingly himself or through any business in which he
15 owns or controls an interest of more than five percent (5%), or by any other person
16 for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate,
17 or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made,
18 entered into, awarded, or granted by the agency by which he is employed or which
19 he supervises, subject to the provisions of KRS 45A.340. This provision shall not
20 apply to:
- 21 (a) A contract, purchase, or good faith negotiation made pursuant to KRS Chapter
22 416 relating to eminent domain; or
- 23 (b) Agreements which may directly or indirectly involve public funds disbursed
24 through entitlement programs; or
- 25 (c) A public servant's spouse or child doing business with any state agency other
26 than the agency by which the public servant is employed or which he
27 supervises; or

- 1 (d) Purchases from a state agency that are available on the same terms to the
2 general public or that are made at public auction; or
- 3 (e) Sales of craft items to a state park by interim state employees designated as
4 craftspersons under KRS 148.257.
- 5 (5) A public servant shall not knowingly accept compensation, other than that provided
6 by law for public servants, for performance of his official duties without the prior
7 approval of the commission.
- 8 (6) A former officer or public servant listed in KRS 11A.010(9)(a) to (g) shall not,
9 within one (1) year~~[six (6) months]~~ of termination of his employment, knowingly
10 by himself or through any business in which he owns or controls an interest of at
11 least five percent (5%), or by any other person for his use or benefit or on his
12 account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part,
13 any contract, agreement, lease, sale, or purchase made, entered into, awarded, or
14 granted by the agency by which he was employed. This provision shall not apply to
15 a contract, purchase, or good faith negotiation made under KRS Chapter 416
16 relating to eminent domain or to agreements that may directly or indirectly involve
17 public funds disbursed through entitlement programs. This provision shall not apply
18 to purchases from a state agency that are available on the same terms to the general
19 public or that are made at public auction. This provision shall not apply to former
20 officers of the Department of Public Advocacy whose continued representation of
21 clients is necessary in order to prevent an adverse effect on the client.
- 22 (7) A present or former officer or public servant listed in KRS 11A.010(9)(a) to (g)
23 shall not, within one (1) year~~[six (6) months]~~ following termination of his office or
24 employment, accept employment, compensation, or other economic benefit from
25 any person or business that contracts or does business with, or is regulated by, the
26 state in matters in which he was directly involved during the last thirty-six (36)
27 months of his tenure. This provision shall not prohibit an individual from returning

1 to the same business, firm, occupation, or profession in which he was involved prior
2 to taking office or beginning his term of employment, or for which he received,
3 prior to his state employment, a professional degree or license, provided that, for a
4 period of one (1) year~~[six (6) months]~~, he personally refrains from working on any
5 matter in which he was directly involved during the last thirty-six (36) months of
6 his tenure in state government. This subsection shall not prohibit the performance of
7 ministerial functions, including but not limited to filing tax returns, filing
8 applications for permits or licenses, or filing incorporation papers, nor shall it
9 prohibit the former officer or public servant from receiving public funds disbursed
10 through entitlement programs.

11 (8) A former public servant shall not act as a lobbyist or lobbyist's principal in matters
12 in which he was directly involved during the last thirty-six (36) months of his tenure
13 for a period of one (1) year after the latter of:

- 14 (a) The date of leaving office or termination of employment; or
- 15 (b) The date the term of office expires to which the public servant was elected.

16 (9) A former public servant shall not represent a person or business before a state
17 agency in a matter in which the former public servant was directly involved during
18 the last thirty-six (36) months of his tenure, for a period of one (1) year after the
19 latter of:

- 20 (a) The date of leaving office or termination of employment; or
- 21 (b) The date the term of office expires to which the public servant was elected.

22 (10) Without the approval of his appointing authority, a public servant shall not accept
23 outside employment from any person or business that does business with or is
24 regulated by the state agency for which the public servant works or which he
25 supervises, unless the outside employer's relationship with the state agency is
26 limited to the receipt of entitlement funds.

27 (a) The appointing authority shall review administrative regulations established

1 under KRS Chapter 11A when deciding whether to approve outside
2 employment for a public servant.

3 (b) The appointing authority shall not approve outside employment for a public
4 servant if the public servant is involved in decision-making or
5 recommendations concerning the person or business from which the public
6 servant seeks outside employment or compensation.

7 (c) The appointing authority, if applicable, shall file quarterly with the Executive
8 Branch Ethics Commission a list of all employees who have been approved
9 for outside employment along with the name of the outside employer of each.

10 (11) The prohibitions imposed by subsection (5) or (10) of this section shall not apply to
11 Professional Golfers' Association class A members who teach golf lessons and
12 receive a fee or lesson charge at golf courses owned and operated by the Kentucky
13 Department of Parks. Instruction provided by an employee of the Commonwealth
14 shall only be given while the employee is on his or her own personal time. The
15 commissioner of the Department of Parks shall promulgate administrative
16 regulations to establish guidelines for the process by which Professional Golfers'
17 Association class A members are approved to teach golf lessons at Kentucky
18 Department of Parks-owned golf courses. The exception granted by this subsection
19 is in recognition of the benefits that will accrue to the Kentucky Department of
20 Parks due to increased participation at state-owned golf courses.

21 ➔Section 2. KRS 11A.050 is amended to read as follows:

22 (1) Each officer, each public servant listed in KRS 11A.010(9)(a) to (g), and each
23 candidate shall file a statement of financial disclosure with the commission, as
24 follows:

25 (a) **Each officer shall file the statement within thirty (30) days of employment**
26 **as an officer, and each officer who occupies his or her position during any**
27 **portion of a calendar year shall file the statement for that portion of the**

1 *calendar year he or she occupied the position on or before April 15 of the*
 2 *following year, whether or not he or she remains an officer.*

3 **(b)** Each ~~{officer and each}~~ public servant listed in KRS 11A.010(9)(a) to (g) who
 4 occupies his *or her* position during any portion of a calendar year shall file the
 5 statement for that portion of the calendar year he *or she* occupied the position
 6 on or before April 15 of the following year, whether or not he *or she* remains
 7 *a*~~{an officer or}~~ public servant as listed in KRS 11A.010(9)(a) to (g).

8 **(c)**~~{(b)}~~ Each officer and public servant listed in KRS 11A.010(9)(a) to (g) who
 9 does not remain an officer or public servant listed in KRS 11A.010(9)(a) to
 10 (g) for the entire calendar year shall file the statement for the portion of the
 11 calendar year that the person served as an officer or public servant listed in
 12 KRS 11A.010(9)(a) to (g). The statement shall be filed with the commission
 13 within thirty (30) days after the date the person no longer serves as an officer
 14 or public servant listed in KRS 11A.010(9)(a) to (g).

15 **(d)**~~{(e)}~~ A candidate shall file the statement reflecting the previous calendar year
 16 with the commission no later than February 15.

17 (2) The statement of financial disclosure shall be filed on a form prescribed by the
 18 commission. The commission shall provide copies of the form upon request without
 19 charge.

20 (3) The statement shall include the following information for the preceding calendar
 21 year:

22 (a) Name and entire residential and business address of filer;

23 (b) Title of position or office whereby filing is required;

24 (c) Any other occupations of filer and spouse;

25 (d) Positions held by the filer or his *or her* spouse in any business, and the name
 26 and address of the business;

27 (e) *Name and address of any employer by whom the filer was employed for the*

1 one (1) year period immediately prior to becoming an officer, not including
2 those listed in paragraph (d) of this subsection;

3 (f) Names and addresses of all businesses in which the filer, his or her spouse, or
4 dependent children has or had an interest of ten thousand dollars (\$10,000) at
5 fair market value or five percent (5%) ownership interest or more;

6 (g)~~(f)~~ The name and address of any source of gross income exceeding one
7 thousand dollars (\$1,000) from any one (1) source to the filer, his or her
8 spouse, or dependent child, as well as information concerning the nature of the
9 business, and the form of the income;

10 ~~(g) Sources of retainers received by the filer or his spouse relating to matters of~~
11 ~~the state agency for which the filer works or supervises or of any other entity~~
12 ~~of state government for which the filer would serve in a decision-making~~
13 ~~capacity, including each source's name and address;]~~

14 (h) Any representation or intervention for compensation by the filer or his or her
15 spouse for any person or business before a state agency for which the filer
16 works or supervises or before any entity of state government for which the
17 filer would serve in a decision-making capacity, including the name and
18 address of the person or business;

19 (i) All positions of a fiduciary nature held by the filer or his or her spouse in a
20 business, including the name and address of the business;

21 (j) Information, including a street address or location, regarding any real property
22 in which there is an interest of ten thousand dollars (\$10,000) or more held by
23 the filer, his or her spouse, or dependent children;

24 (k) Sources, including each source's name and address, of gifts of money or
25 property with a retail value of more than two hundred dollars (\$200) from any
26 one (1) source to the filer, his or her spouse, or dependent children, except
27 those from a member of the filer's family;~~and]~~

- 1 (l) Identity, including an address, of creditors owed more than ten thousand
 2 dollars (\$10,000), except debts arising from the purchase of consumer goods;
 3 and
 4 (m) Names and addresses of family members of the filer or persons with whom
 5 the filer was engaged in a business who are registered as legislative agents
 6 under KRS 6.807 or executive agency lobbyists under KRS 11A.211.

7 Paragraphs (a) to ~~(m)~~ of this subsection shall not require disclosure of specific
 8 dollar amounts or of privileged information.

9 ➔Section 3. KRS 11A.080 is amended to read as follows:

- 10 (1) (a) Upon a complaint signed under penalty of perjury by any person, or upon its
 11 own motion, the commission shall conduct a preliminary investigation of any
 12 alleged violation of this chapter.
- 13 (b) The preliminary investigation shall begin not later than ten (10) days after the
 14 next commission meeting following the receipt of the sworn complaint, or, if
 15 the investigation is initiated by the commission's own motion, not later than
 16 ten (10) days after the date of the adoption of the motion.
- 17 (c) Within ten (10) days of the commencement of the preliminary investigation,
 18 the commission shall forward a copy of the complaint, if one has been filed, or
 19 a statement of possible violations being investigated, and a general statement
 20 of the applicable law to the person alleged to have committed a violation.
- 21 (2) All commission proceedings and records relating to a preliminary investigation
 22 shall be confidential until a final determination is made by the commission, except:
- 23 (a) The commission may turn over to the Attorney General, the United States
 24 Attorney, or the Commonwealth's attorney of the jurisdiction in which the
 25 offense allegedly occurred, evidence which may be used in criminal
 26 proceedings or, at its discretion, may at any time turn over to the Personnel
 27 Board, the Auditor of Public Accounts, or any other agency with jurisdiction

1 to review, audit, or investigate the alleged offense, evidence which may be
2 used by those agencies for investigative purposes;

3 (b) If the alleged violator publicly discloses the existence of a preliminary
4 investigation, the commission may publicly confirm the existence of the
5 inquiry and, in its discretion, make public any documents which were issued
6 to either party;

7 (c) If the matter being investigated was referred to the commission from another
8 state agency, the commission may inform the referring state agency of the
9 status of any preliminary investigation and of any action taken on the matter.

10 (3) If the commission determines in the preliminary investigation that the facts are not
11 sufficient to constitute a violation of this chapter, the commission shall immediately
12 terminate the investigation and notify in writing the complainant, if any, and the
13 person alleged to have committed a violation. The commission may confidentially
14 inform the alleged violator of potential violations and provide information to ensure
15 future compliance with the law. If the alleged violator publicly discloses the
16 existence of such action by the commission, the commission may confirm the
17 existence of the resolution and, in its discretion, make public any documents which
18 were issued to the alleged violator.

19 (4) If the commission, during the course of the preliminary investigation, finds probable
20 cause to believe that a violation of this chapter has occurred, the commission may,
21 upon majority vote:

22 (a) Due to mitigating circumstances such as lack of significant economic
23 advantage or gain by the alleged violator, lack of significant economic loss to
24 the state, or lack of significant impact on public confidence in government, in
25 writing, confidentially reprimand the alleged violator for potential violations
26 of the law and provide a copy of the reprimand to the alleged violator's
27 appointing authority, if any. If the alleged violator publicly discloses the

1 existence of such an action, the commission may confirm the existence of the
 2 action and, in its discretion, make public any documents which were issued to
 3 the alleged violator; or

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

6 **(5) If the commission determines that a violation of this chapter has occurred in a**
 7 **case involving a contract with state government, the secretary of the Finance and**
 8 **Administration Cabinet may void any contract related to that case.**

9 **(6) If the commission determines that a violation of the provisions of KRS 11A.001 to**
 10 **11A.130 has occurred, an employer of a former officer or public servant may be**
 11 **subject to a fine of up to one thousand dollars (\$1,000) for each offense.**

12 ➔Section 4. KRS 11A.110 is amended to read as follows:

13 The commission shall perform the following additional duties:

14 (1) On its own initiative or upon a signed request in writing, issue and publish advisory
 15 opinions on the requirements of this chapter for those who wish to use the opinion
 16 to guide their own conduct. If requested in writing by the person seeking the
 17 advisory opinion, the commission shall not release that person's name;

18 (2) Provide a continuing program of education, assistance, and information to public
 19 servants, including, but not limited to, publishing and making available to the
 20 persons subject to this chapter and the public explanatory information concerning
 21 this chapter, the duties imposed by it, and the means of enforcement;

22 (3) Promulgate administrative regulations in accordance with KRS Chapter 13A to
 23 implement this chapter, **including, if required by the commission, electronic filing**
 24 **of disclosure statements by executive agency lobbyists, their employers, or real**
 25 **parties in interest;**

26 (4) Prescribe forms for statements required by this chapter and furnish the forms to
 27 persons required to file the statements. The forms shall be adopted as administrative

- 1 regulations or adopted by reference in an administrative regulation;
- 2 (5) Prepare and publish a manual of guidelines setting forth uniform methods of
3 reporting for use by persons required to file under this chapter;
- 4 (6) Accept and file any information voluntarily supplied that exceeds the requirements
5 of this chapter;
- 6 (7) Preserve the disclosure statements filed with it for four (4) years from the date of
7 receipt;
- 8 (8) Make statements and reports filed with the commission available for public
9 inspection and copying pursuant to KRS 61.870 to KRS 61.884 (Kentucky Open
10 Records Law);
- 11 (9) Compile and maintain a current index of all statements filed with the commission to
12 facilitate public access to the reports and statements;
- 13 (10) Prepare and publish reports as it may deem appropriate;
- 14 (11) Audit statements and reports filed with the commission;
- 15 (12) Make recommendations for legislation relating to governmental ethics and other
16 matters included in this chapter as the commission deems desirable; and
- 17 (13) Prepare a biennial written report, no later than December 1 of each odd-numbered
18 year, to the Legislative Research Commission, the Governor, and the public on the
19 activities of the commission in the preceding two (2) fiscal years. The report shall
20 contain the names and duties of each individual employed by the commission and a
21 summary of commission determinations and advisory opinions. The commission
22 shall prevent disclosure of the identity of a person involved in decisions or advisory
23 opinions. The report may contain other information on matters within the
24 commission's jurisdiction and recommendations for legislation as the commission
25 deems desirable.

26 ➔Section 5. KRS 11A.201 is amended to read as follows:

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

- 1 (1) "Compensation" means any money, thing of value, or economic benefit conferred
2 on, or received by, any person in return for services rendered, or to be rendered, by
3 himself or another;
- 4 (2) (a) "Expenditure" means any of the following that is made to, or for the benefit of
5 an elected executive official, the secretary of a cabinet listed in KRS 12.250,
6 an executive agency official, or a member of the staff of any of the officials
7 listed in this paragraph:
- 8 1. A payment, distribution, loan, advance, deposit, reimbursement, or gift
9 of money, real estate, or anything of value, including, but not limited to,
10 food and beverages, entertainment, lodging, transportation, or honoraria;
 - 11 2. A contract, promise, or agreement to make an expenditure; or
 - 12 3. The purchase, sale, or gift of services or any other thing of value.
- 13 (b) "Expenditure" does not include a contribution, gift, or grant to a foundation or
14 other charitable organization that is exempt from federal income taxation
15 under Section 501(c)(3) of the Internal Revenue Code. "Expenditure" does not
16 include the purchase, sale, or gift of services or any other thing of value that is
17 available to the general public on the same terms as it is available to the
18 persons listed in this subsection. "Expenditure" does not include a payment,
19 contribution, gift, purchase, or any other thing of value that is made to or on
20 behalf of any elected executive official, the secretary of a cabinet listed in
21 KRS 12.250, an executive agency official, or any member of the staff of any
22 of the officials listed in this paragraph who works for a state agency for which
23 the executive agency lobbyist is not registered to influence;
- 24 (3) "Employer" means any person who engages an executive agency lobbyist;
- 25 (4) "Engage" means to make any arrangement, and "engagement" means arrangement,
26 whereby an individual is employed or retained for compensation to act for or on
27 behalf of an employer to influence executive agency decisions or to conduct any

1 executive agency lobbying activity;

2 (5) (a) "Financial transaction" means a transaction or activity that is conducted or
3 undertaken for profit and arises from the joint ownership, or the ownership, or
4 part ownership in common of any real or personal property or any commercial
5 or business enterprise of whatever form or nature between the following:

- 6 1. An executive agency lobbyist, his ***or her*** employer, a real party in
7 interest, or a member of the immediate family of the executive agency
8 lobbyist, his ***or her*** employer, or a real party in interest; and
- 9 2. Any elected executive official, the secretary of a cabinet listed in KRS
10 12.250, an executive agency official, or any member of the staff of any
11 of the officials listed in this subparagraph.

12 (b) "Financial transaction" does not include any transaction or activity described
13 in paragraph (a) of this subsection if it is available to the general public on the
14 same terms;

15 (6) "Executive agency" means the office of an elected executive official, a cabinet listed
16 in KRS 12.250, or any other state agency, department, board, or commission
17 controlled or directed by an elected executive official or otherwise subject to his ***or***
18 ***her*** authority. "Executive agency" does not include any court or the General
19 Assembly;

20 (7) "Executive agency decision" means a decision of an executive agency regarding the
21 expenditure of funds of the state or of an executive agency with respect to the award
22 of a contract, grant, lease, or other financial arrangement under which those funds
23 are distributed or allocated. ***This shall also include decisions made concerning:***

24 ***(a) The parameters of requests for information and requests for proposal;***

25 ***(b) Drafting, adopting, or implementing a budget provision;***

26 ***(c) Administrative regulations or rules;***

27 ***(d) An executive order;***

1 (e) Legislation or amendments thereto; or

2 (f) Other public policy decisions.

3 (8) (a) "Executive agency lobbyist" means any person engaged to influence executive
4 agency decisions or to conduct executive agency lobbying activity as one (1)
5 of his or her main purposes regarding a substantial issue, including
6 associations, coalitions, or public interest entities formed for the purpose of
7 promoting or otherwise influencing executive agency decisions~~[on a~~
8 ~~substantial basis]~~. The term "executive agency lobbyist" shall also include
9 placement agents and unregulated placement agents.

10 (b) "Executive agency lobbyist" does not include an elected or appointed officer
11 or employee of a federal or state agency, state college, state university, or
12 political subdivision who attempts to influence or affect executive agency
13 decisions in his or her fiduciary capacity as a representative of his or her
14 agency, college, university, or political subdivision;

15 (9) (a) "Executive agency lobbying activity" means contacts made to promote,
16 advocate, or oppose the passage, modification, defeat, or executive approval
17 or veto of any legislation or otherwise influence the outcome of an executive
18 agency decision by direct communication with an elected executive official,
19 the secretary of any cabinet listed in KRS 12.250, any executive agency
20 official whether in the classified service or not, or a member of the staff of
21 any one of the officials listed in this paragraph.

22 (b) "Executive agency lobbying activity" does not include any of the following:

23 1. The action of any person having a direct interest in executive agency
24 decisions, if the person acting under Section 1 of the Kentucky
25 Constitution, assembles together with other persons for their common
26 good, petitions any person listed in paragraph (a) of this subsection for
27 the redress of grievances or other proper purposes;

- 1 2. Contacts made for the sole purpose of gathering information contained
2 in a public record;~~[-or]~~
- 3 3. Appearances before public meetings of executive agencies;
- 4 4. News, editorial, and advertising statements published in newspapers,
5 journals, or magazines, or broadcast over radio or television;
- 6 5. The gathering and furnishing of information and news by bona fide
7 reporters, correspondents, or news bureaus to news media described in
8 subparagraph 4. of this paragraph;
- 9 6. Publications primarily designed for, and distributed to, members of
10 bona fide associations or charitable or fraternal nonprofit
11 corporations;
- 12 7. Professional services in preparing executive agency decisions,
13 preparing arguments regarding executive agency decisions, or in
14 advising clients and rendering opinions regarding proposed or
15 pending executive agency decisions, if the services are not otherwise
16 connected to lobbying; or
- 17 8. Public comments submitted to an executive agency during the public
18 comment period on administrative regulations or rules;
- 19 (10) "Executive agency official" means an officer or employee of an executive agency
20 whose principal duties are to formulate policy or to participate directly or indirectly
21 in the preparation, review, or award of contracts, grants, leases, or other financial
22 arrangements with an executive agency;
- 23 (11) "Aggrieved party" means a party entitled to resort to a remedy;
- 24 (12) "Elected executive official" means the Governor, Lieutenant Governor, Secretary of
25 State, Auditor of Public Accounts, State Treasurer, Attorney General, and
26 Commissioner of Agriculture;
- 27 (13) "Person" means an individual, proprietorship, firm, partnership, limited partnership,

1 joint venture, joint stock company, syndicate, business or statutory trust, donative
2 trust, estate, company, corporation, limited liability company, association, club,
3 committee, organization, or group of persons acting in concert;

4 (14) "Staff" means any employee of the office of the Governor, or a cabinet listed in
5 KRS 12.250, whose official duties are to formulate policy and who exercises
6 administrative or supervisory authority, or who authorizes the expenditure of state
7 funds;

8 (15) "Real party in interest" means the person or entity on whose behalf an executive
9 agency lobbyist is acting, if that person or entity is not the employer of the executive
10 agency lobbyist;

11 (16) "Substantial issue~~[basis]~~" means contacts which are intended to influence a decision
12 that involves one or more disbursements of state funds in an amount of at least five
13 thousand dollars (\$5,000) per year, or any budget provision, administrative
14 regulation or rule, legislative matter or other public policy matter that financially
15 impacts the executive agency lobbyist or his or her employer;

16 (17) "Placement agent" means an individual or firm who is compensated or hired by an
17 employer or other real party in interest for the purpose of influencing an executive
18 agency decision regarding the investment of the Kentucky Retirement Systems or
19 the Kentucky Teachers' Retirement System assets; and

20 (18) "Unregulated placement agent" means a placement agent who is prohibited by
21 federal securities laws and regulations promulgated thereunder from receiving
22 compensation for soliciting a government agency.

23 ➔Section 6. KRS 11A.211 is amended to read as follows:

24 (1) Each executive agency lobbyist, employer, and real party in interest shall file with
25 the commission within ten (10) days following the engagement of an executive
26 agency lobbyist, an initial registration statement showing all of the following:

27 (a) The name, business address, and occupation of the executive agency lobbyist;

- 1 (b) The name and business address of the employer and of any real party in
2 interest on whose behalf the executive agency lobbyist is acting, if it is
3 different from the employer. However, if a trade association or other
4 charitable or fraternal organization that is exempt from federal income
5 taxation under Section 501(c) of the Internal Revenue Code is the employer,
6 the statement need not list the names and addresses of every member of the
7 association or organization, so long as the association or organization itself is
8 listed;
- 9 (c) A brief description of the executive agency decision to which the engagement
10 relates;
- 11 (d) The name of the executive agency or agencies to which the engagement
12 relates; ~~and~~
- 13 (e) Certification by the employer and executive agency lobbyist that the
14 information contained in the registration statement is complete and accurate;
- 15 **(f) Compensation paid to each executive agency lobbyist by each employer; and**
16 **(g) Certification that the employer and agent have complied with KRS 11A.236.**
- 17 (2) In addition to the initial registration statement required by subsection (1) of this
18 section, each executive agency lobbyist, employer, and real party in interest shall
19 file with the commission, not later than the last day of July of each year, an updated
20 registration statement that confirms the continuing existence of each engagement
21 described in an initial registration statement, ~~and~~ that lists the specific executive
22 agency decisions the executive agency lobbyist sought to influence under the
23 engagement during the period covered by the updated statement, **and the**
24 **compensation paid to each executive agency lobbyist by each employer**, and with
25 it any statement of expenditures required to be filed by KRS 11A.216 and any
26 details of financial transaction required to be filed by KRS 11A.221.
- 27 (3) If an executive agency lobbyist is engaged by more than one (1) employer, the

1 executive agency lobbyist shall file a separate initial and updated registration
2 statement for each engagement **and list compensation paid to the executive agency**
3 **lobbyist by each employer**. If an employer engages more than one (1) executive
4 agency lobbyist, the employer shall file only one (1) updated registration statement
5 under subsection (2) of this section, which shall contain the information required by
6 subsection (2) of this section regarding all executive agency lobbyists engaged by
7 the employer.

8 (4) (a) A change in any information required by subsection (1)(a), (b), (c), (d), or (2)
9 of this section shall be reflected in the next updated registration statement
10 filed under subsection (2) of this section.

11 (b) Within thirty (30) days following the termination of an engagement, the
12 executive agency lobbyist who was employed under the engagement shall file
13 written notice of the termination with the commission.

14 (5) Each employer of one (1) or more executive agency lobbyists, and each real party in
15 interest, shall pay a registration fee of five hundred dollars (\$500) upon the filing of
16 an updated registration statement. All fees collected by the commission under the
17 provisions of this subsection shall be deposited in the State Treasury in a trust and
18 agency fund account to the credit of the commission. These agency funds shall be
19 used to supplement general fund appropriations for the operations of the
20 commission and shall not lapse. No part of the trust and agency fund account shall
21 revert to the general funds of this state.

22 (6) Upon registration pursuant to this section, an executive agency lobbyist shall be
23 issued a card annually by the commission showing the executive agency lobbyist is
24 registered. The registration card shall be valid from the date of its issuance through
25 the thirty-first day of July of the following year.

26 (7) The commission shall review each registration statement filed with the commission
27 under this section to determine if the statement contains all of the required

1 information. If the commission determines the registration statement does not
2 contain all of the required information or that an executive agency lobbyist,
3 employer, or real party in interest has failed to file a registration statement, the
4 commission shall send written notification of the deficiency by certified mail to the
5 person who filed the registration statement or to the person who failed to file the
6 registration statement regarding the failure. Any person so notified by the
7 commission shall, not later than fifteen (15) days after receiving the notice, file a
8 registration statement or an amended registration statement that includes all of the
9 required information. If any person who receives a notice under this subsection fails
10 to file a registration statement or an amended registration statement within the
11 fifteen (15) day period, the commission may initiate an investigation of the person's
12 failure to file. If the commission initiates an investigation pursuant to this section,
13 the commission shall also notify each elected executive official and the secretary of
14 each cabinet listed in KRS 12.250 of the pending investigation.

15 (8) In the biennial report published under KRS 11A.110(13), the commission shall, in
16 the manner and form the commission determines, include a report containing
17 statistical information on the registration statements filed under this section during
18 the preceding biennium.

19 (9) If an employer who engages an executive agency lobbyist, or a real party in interest
20 on whose behalf the executive agency lobbyist was engaged is the recipient of a
21 contract, grant, lease, or other financial arrangement pursuant to which funds of the
22 state or of an executive agency are distributed or allocated, the executive agency or
23 any aggrieved party may consider the failure of the real party in interest, the
24 employer, or the executive agency lobbyist to comply with this section as a breach
25 of a material condition of the contract, grant, lease, or other financial arrangement.

26 (10) Executive agency officials may require certification from any person seeking the
27 award of a contract, grant, lease, or financial arrangement that the person, his *or her*

1 employer, and any real party in interest are in compliance with this section.

2 ➔Section 7. KRS 11A.236 is amended to read as follows:

- 3 (1) Except as provided in subsection (2) of this section, no person shall engage any
4 persons to influence executive agency decisions or conduct executive agency
5 lobbying activity for compensation that is contingent in any way on the outcome of
6 an executive agency decision, **including payment based on the awarding of a**
7 **contract or payment of a percentage of a government contract awarded,** and no
8 person shall accept any engagement to influence executive agency decisions or
9 conduct executive agency lobbying activity for compensation that is contingent in
10 any way on the outcome of an executive agency decision, **including payment based**
11 **on the awarding of a contract or payment of a percentage of a government**
12 **contract awarded. An employer who pays an executive agency lobbyist based on**
13 **the awarding of a contract or payment of a percentage of a government contract**
14 **awarded shall be barred from doing business with the Commonwealth for a**
15 **period of five (5) years from the date on which such a payment is revealed to the**
16 **Executive Branch Ethics Commission.**

- 17 (2) Subsection (1) of this section does not prohibit, and shall not be construed to
18 prohibit:

19 (a) Any person from compensating his **or her** sales employees pursuant to an
20 incentive compensation plan, such as commission sales, if the incentive
21 compensation plan is the same plan used to compensate similarly situated
22 sales employees who are not executive agency lobbyists; or

23 (b) Any person from engaging a placement agent to influence investment
24 decisions of the Kentucky Retirement Systems and the Kentucky Teachers'
25 Retirement System for compensation that is contingent on the outcome of
26 investment decisions by the retirement systems' boards of trustees. The
27 provisions of this paragraph shall not apply to unregulated placement agents.