

1 AN ACT relating to executive branch ethics.

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

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

5 *(1) Each public servant listed in KRS 11A.010(9)(a) to (g) shall file a statement of*
6 *use of state resources with the commission relating to all events and expenditures*
7 *under which he or she used state resources for nonpublic purposes valued in*
8 *excess of two hundred fifty dollars (\$250). The statement of use of state resources*
9 *shall be filed within thirty (30) days after the date on which the use of state*
10 *resources for nonpublic purposes occurred.*

11 *(2) The statement of use of state resources shall be filed on a form prescribed by the*
12 *commission in administrative regulations promulgated under KRS Chapter 13A.*
13 *The commission shall provide copies of the form upon request without charge.*
14 *Within ten (10) days of the submission of the statement of use of state resources,*
15 *the commission shall determine whether the form as submitted complies with the*
16 *requirements of this section.*

17 *(3) The form provided under subsection (2) of this section shall include the*
18 *following:*

19 *(a) The name, title, and business address of the public servant listed in KRS*
20 *11A.010(9)(a) to (g); and*

21 *(b) A detailed description of the events related to use of state resources,*
22 *including:*

23 *1. The reason for using state resources for nonpublic purposes. If state*
24 *resources were used for public and nonpublic purposes at*
25 *approximately the same time, both purposes shall be listed;*

26 *2. The date and time the event occurred;*

27 *3. An estimate of the cost of the event;*

- 1 4. Any reimbursement made to repay or offset the cost of the event,
- 2 including:
- 3 a. The name, title, and business address of the person who provided
- 4 the reimbursement; and
- 5 b. The reason the reimbursement was provided; and
- 6 5. Any persons other than the public servant listed in KRS 11A.010(9)(a)
- 7 to (g) who participated in the event, including:
- 8 a. Adult family members of the public servant listed in KRS
- 9 11A.010(9)(a) to (g); and
- 10 b. Public servants listed in KRS 11A.010(9)(h) to (i), excluding
- 11 security personnel.

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

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

- 14 (1) "Business" means any corporation, limited liability company, partnership, limited
- 15 partnership, sole proprietorship, firm, enterprise, franchise, association,
- 16 organization, self-employed individual, holding company, joint stock company,
- 17 receivership, trust, or any legal entity through which business is conducted, whether
- 18 or not for profit;
- 19 (2) "Commission" means the Executive Branch Ethics Commission;
- 20 (3) "Compensation" means any money, thing of value, or economic benefit conferred
- 21 on, or received by, any person in return for services rendered, or to be rendered, by
- 22 himself or another;
- 23 (4) "Family" means spouse and children, as well as a person who is related to a public
- 24 servant as any of the following, whether by blood or adoption: parent, brother,
- 25 sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-
- 26 in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter,
- 27 stepbrother, stepsister, half-brother, half-sister~~[half brother, half sister]~~;

- 1 (5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or
2 anything of value, unless consideration of equal or greater value is received; "gift"
3 does not include gifts from family members, campaign contributions, the waiver of
4 a registration fee for a presenter at a conference or training described in KRS
5 45A.097(5), or door prizes available to the public;
- 6 (6) "Income" means any money or thing of value received or to be received as a claim
7 on future services, whether in the form of a fee, salary, expense allowance,
8 forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other
9 form of compensation or any combination thereof;
- 10 (7) "Officer" means:
- 11 (a) All major management personnel in the executive branch of state government,
12 including the secretary of the cabinet, the Governor's chief executive officers,
13 cabinet secretaries, deputy cabinet secretaries, general counsels,
14 commissioners, deputy commissioners, executive directors, executive
15 assistants, policy advisors, special assistants, administrative coordinators,
16 executive advisors, staff assistants, and division directors;
- 17 (b) Members and full-time chief administrative officers of:
- 18 1. The Parole Board;
- 19 2. Kentucky Claims Commission;
- 20 3. Kentucky Retirement Systems board of trustees;
- 21 4. Kentucky Teachers' Retirement System board of trustees;
- 22 5. The Kentucky Public Employees Deferred Compensation Authority
23 board of trustees;
- 24 6. Public Service Commission;
- 25 7. Worker's Compensation Board and its administrative law judges;
- 26 8. The Kentucky Occupational Safety and Health Review Commission;
- 27 9. The Kentucky Board of Education; and

- 1 10. The Council on Postsecondary Education;
- 2 (c) Salaried members of executive branch boards and commissions; and
- 3 (d) Any person who, through a personal service contract or any other contractual
- 4 employment arrangement with an agency, performs on a full-time,
- 5 nonseasonal basis a function of any major management position listed in this
- 6 subsection;
- 7 (8) "Official duty" means any responsibility imposed on a public servant by virtue of
- 8 his or her position in the state service;
- 9 (9) "Public servant" means:
- 10 (a) The Governor;
- 11 (b) The Lieutenant Governor;
- 12 (c) The Secretary of State;
- 13 (d) The Attorney General;
- 14 (e) The Treasurer;
- 15 (f) The Commissioner of Agriculture;
- 16 (g) The Auditor of Public Accounts;
- 17 (h) All employees in the executive branch including officers as defined in
- 18 subsection (7) of this section and merit employees; and
- 19 (i) Any person who, through any contractual arrangement with an agency, is
- 20 employed to perform a function of a position within an executive branch
- 21 agency on a full-time, nonseasonal basis;
- 22 (10) "Agency" means every state office, cabinet, department, board, commission, public
- 23 corporation, or authority in the executive branch of state government. A public
- 24 servant is employed by the agency by which his or her appointing authority is
- 25 employed, unless his or her agency is attached to the appointing authority's agency
- 26 for administrative purposes only, or unless the agency's characteristics are of a
- 27 separate independent nature distinct from the appointing authority and it is

- 1 considered an agency on its own, such as an independent department;
- 2 (11) "Lobbyist" means any person employed as a legislative agent as defined in KRS
3 6.611(23) or any person employed as an executive agency lobbyist as defined in
4 KRS 11A.201(8);
- 5 (12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes,
6 opposes, or acts;
- 7 (13) "Candidate" means those persons who have officially filed candidacy papers or who
8 have been nominated by their political party pursuant to KRS 118.105, 118.115,
9 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of
10 this section;
- 11 (14) "Does business with" or "doing business with" means contracting, entering into an
12 agreement, leasing, or otherwise exchanging services or goods with a state agency
13 in return for payment by the state, including accepting a grant, but not including
14 accepting a state entitlement fund disbursement;
- 15 (15) "Public agency" means any governmental entity;
- 16 (16) "Appointing authority" means the agency head or any person whom he or she has
17 authorized by law to act on behalf of the agency with respect to employee
18 appointments;
- 19 (17) "Represent" means to attend an agency proceeding, write a letter, or communicate
20 with an employee of an agency on behalf of someone else;
- 21 (18) "Directly involved" means to work on personally or to supervise someone who
22 works on personally;
- 23 (19) "Sporting event" means any professional or amateur sport, athletic game, contest,
24 event, or race involving machines, persons, or animals, for which admission tickets
25 are offered for sale and that is viewed by the public;
- 26 (20) "Person" means an individual, proprietorship, firm, partnership, limited partnership,
27 joint venture, joint stock company, syndicate, business or statutory trust, donative

1 trust, estate, company, corporation, limited liability company, association, club,
2 committee, organization, or group of persons acting in concert; and

3 (21) "Salaried" means receiving a fixed compensation or benefit reserved for full-time
4 employees, which is paid on a regular basis without regard to the actual number of
5 hours worked.

6 **(22) "Nonpublic purpose" means any funds, personnel, property, and any items or**
7 **other entities allocated or designated by the Commonwealth for public purposes,**
8 **but used for private, personal, or political purposes; and**

9 **(23) "State resources" means funds, personnel, property, equipment, airplanes,**
10 **vehicles, and any other items or entities allocated or designated by the**
11 **Commonwealth for public purposes.**

12 ➔Section 3. KRS 11A.990 is amended to read as follows:

13 (1) Any person who violates KRS 11A.040 shall be guilty of a Class D felony. In
14 addition:

15 (a) The judgment of conviction for a violation of KRS 11A.040(2) shall recite
16 that the offender is disqualified to hold office thereafter; and

17 (b) Any person who violates KRS 11A.040(1) to (5) shall be judged to have
18 forfeited any employment, or constitutional or statutory office he **or she** holds,
19 provisions of KRS Chapter 18A to the contrary notwithstanding.

20 (2) **(a)** Any officer, public servant, or candidate required to file a statement of
21 financial disclosure under KRS 11A.050 who does not file the statement by a
22 date specified in that section shall have his **or her** salary withheld from the
23 first day of noncompliance until he **or she** shall have completed the action
24 required by law. The amount withheld shall be deducted from his **or her**
25 overall pay and allowances and shall be recoverable upon the filing of the
26 statement of financial disclosure. The commission may grant a reasonable
27 extension of time for filing a statement of financial disclosure for good cause

1 shown.

2 (b) Any public servant listed in KRS 11A.010(9)(a) to (g) required to file a
3 statement of use of state resources under Section 1 of this Act who does not
4 file the statement by a date specified in that section shall have his or her
5 salary withheld from the first day of noncompliance until he or she shall
6 have completed the action required by law. The amount withheld shall be
7 deducted from his or her overall pay and allowances and shall be
8 recoverable upon the filing of the statement of use of state resources. The
9 commission may grant a reasonable extension of time for filing a statement
10 of use of state resources for good cause shown.

11 (3) Any person who maliciously files with the commission a false charge of misconduct
12 on the part of any public servant or other person shall be fined not to exceed five
13 thousand dollars (\$5,000), or imprisoned in a county jail for a term not to exceed
14 one (1) year, or both.

15 (4) Prosecution for violation of any provision of KRS 11A.040 shall not be commenced
16 after four (4) years have elapsed from the date of the violation. Any executive
17 agency lobbyist, employer, or real party in interest who violates any provision in
18 KRS 11A.206 shall for the first violation be subject to a civil penalty not to exceed
19 five thousand dollars (\$5,000). For the second and each subsequent violation, he or
20 she shall be guilty of a Class D felony.

21 (5) Any executive agency lobbyist, employer, or real party in interest who fails to file
22 the initial registration statement or updated registration statement required by KRS
23 11A.211 or 11A.216, or who fails to remedy a deficiency in any filing in a timely
24 manner, may be fined by the commission an amount not to exceed one hundred
25 dollars (\$100) per day, up to a maximum total fine of one thousand dollars (\$1,000).

26 (6) Any executive agency lobbyist, employer, or real party in interest who intentionally
27 fails to register, or who intentionally files an initial registration statement or updated

1 registration statement required by KRS 11A.211 or 11A.216 which he or she knows
2 to contain false information or to omit required information shall be guilty of a
3 Class D felony.

4 (7) An executive agency lobbyist, employer, or real party in interest who files a false
5 statement of expenditures or details of a financial transaction under KRS 11A.221
6 or 11A.226 is liable in a civil action to any official or employee who sustains
7 damage as a result of the filing or publication of the statement.

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