

1 AN ACT relating to ethics and declaring an emergency.

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

3 ➔Section 1. KRS 11A.060 is amended to read as follows:

4 (1) The Executive Branch Ethics Commission is hereby established.

5 (2) The commission shall be composed of seven (7)~~five (5)~~ members, two (2) of
6 whom shall be appointed by the Governor.

7 **Each of the following shall appoint one (1) member of the commission:**

8 **(a) Treasurer;**

9 **(b) Auditor of Public Accounts;**

10 **(c) Commissioner of Agriculture;**

11 **(d) Secretary of State; and**

12 **(e) Attorney General.**

13 (3) **On the effective date of this Act, the terms of the existing members of the**
14 **commission shall terminate and seven (7) new initial members shall be appointed**
15 **by the officials listed under subsection (2) of this section.** Members of the
16 commission shall serve staggered terms of four (4) years. Of the initial members
17 appointed as provided in this section, one (1) member shall serve a term of one (1)
18 year **and shall be appointed by the Treasurer,** one (1) member shall serve a term of
19 two (2) years **and shall be appointed by the Auditor of Public Accounts, two (2)**
20 **members**~~one (1) member~~ shall serve a term of three (3) years, **one (1) of whom**
21 **shall be appointed by the Governor and one (1) of whom shall be appointed by the**
22 **Commissioner of Agriculture,** and **three (3)**~~two (2)~~ members shall be appointed
23 for terms of four (4) years, **one (1) of whom shall be appointed by the Governor,**
24 **one (1) of whom shall be appointed by the Secretary of State, and one (1) of**
25 **whom shall be appointed by the Attorney General.** Thereafter, all appointments
26 shall be for **staggered terms of** four (4) years.

27 (4) The commission shall **every two (2) years** elect from its membership a

1 **chair**[chairman] and vice **chair**[chairman]. In the absence of the **chair**[chairman] or
2 in the event of a vacancy in that position, the vice **chair**[chairman] shall serve as
3 **chair**[chairman].

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

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

8 (7) Members of the commission shall be removed by the **appointing authority who**
9 **appointed him or her**[Governor] for cause only, including substantial neglect of
10 duty and inability to discharge the powers and duties of office.

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

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

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

17 **(11) The commission shall not be reorganized except by statute.**

18 ➔Section 2. KRS 11A.080 is amended to read as follows:

19 (1) (a) Upon a complaint signed under penalty of perjury by any person, or upon its
20 own motion, the commission shall conduct a preliminary investigation of any
21 alleged violation of this chapter.

22 (b) The preliminary investigation shall begin not later than ten (10) days after the
23 next commission meeting following the receipt of the sworn complaint, or, if
24 the investigation is initiated by the commission's own motion, not later than
25 ten (10) days after the date of the adoption of the motion.

26 (c) Within ten (10) days of the commencement of the preliminary investigation,
27 the commission shall forward a copy of the complaint, if one has been filed, or

1 a statement of possible violations being investigated, and a general statement
2 of the applicable law to the person alleged to have committed a violation.

3 **(d) For each complaint filed by a person other than the commission or a**
4 **member of the commission, the commission shall make a finding as to**
5 **whether the complaint is:**

6 **1. Well-grounded in fact;**

7 **2. Warranted by existing law; and**

8 **3. Filed for a good faith argument or reason and not for any improper**
9 **purpose, such as for political advantage, to harass or embarrass a**
10 **person or persons, to cause delays, or to increase the costs of**
11 **adjudicating a case before the commission.**

12 (2) All commission proceedings and records relating to a preliminary investigation
13 shall be confidential until a final determination is made by the commission, except:

14 (a) The commission may turn over to the Attorney General, the United States
15 Attorney, or the Commonwealth's attorney of the jurisdiction in which the
16 offense allegedly occurred, evidence which may be used in criminal
17 proceedings or, at its discretion, may at any time turn over to the Personnel
18 Board, the Auditor of Public Accounts, or any other agency with jurisdiction
19 to review, audit, or investigate the alleged offense, evidence which may be
20 used by those agencies for investigative purposes;

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

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

- 1 (3) If the commission determines in the preliminary investigation that the facts are not
2 sufficient to constitute a violation of this chapter, the commission shall immediately
3 terminate the investigation and notify in writing the complainant, if any, and the
4 person alleged to have committed a violation. The commission may confidentially
5 inform the alleged violator of potential violations and provide information to ensure
6 future compliance with the law. If the alleged violator publicly discloses the
7 existence of such action by the commission, the commission may confirm the
8 existence of the resolution and, in its discretion, make public any documents which
9 were issued to the alleged violator.
- 10 (4) If the commission, during the course of the preliminary investigation, finds probable
11 cause to believe that a violation of this chapter has occurred, the commission may,
12 upon majority vote:
- 13 (a) Due to mitigating circumstances such as lack of significant economic
14 advantage or gain by the alleged violator, lack of significant economic loss to
15 the state, or lack of significant impact on public confidence in government, in
16 writing, confidentially reprimand the alleged violator for potential violations
17 of the law and provide a copy of the reprimand to the alleged violator's
18 appointing authority, if any. If the alleged violator publicly discloses the
19 existence of such an action, the commission may confirm the existence of the
20 action and, in its discretion, make public any documents which were issued to
21 the alleged violator; or
- 22 (b) Initiate an administrative proceeding to determine whether there has been a
23 violation.
- 24 (5) If the commission determines that a violation of this chapter has occurred in a case
25 involving a contract with state government, the secretary of the Finance and
26 Administration Cabinet may void any contract related to that case.
- 27 (6) If the commission determines that a violation of the provisions of KRS 11A.001 to

1 11A.130 has occurred, an employer of a former officer or public servant may be
2 subject to a fine of up to one thousand dollars (\$1,000) for each offense.