

1 AN ACT relating to government contract review and declaring an emergency.

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

3 ➔Section 1. KRS 45A.705 is repealed, reenacted, and amended to read as
4 follows:

- 5 (1) There is hereby created a permanent committee of the Legislative Research
6 Commission to be known as the Government Contract Review Committee. The
7 committee shall be composed of eight (8) members appointed as follows: three (3)
8 members of the Senate appointed by the President of the Senate; one (1) member of
9 the minority party in the Senate appointed by the Minority Floor Leader in the
10 Senate; three (3) members of the House of Representatives appointed by the
11 Speaker of the House of Representatives; and one (1) member of the minority party
12 in the House of Representatives appointed by the Minority Floor Leader in the
13 House of Representatives. Members shall serve for terms of two (2) years, and the
14 members appointed from each chamber shall elect one (1) member from their
15 chamber to serve as co-chair. Any vacancy that may occur in the membership of the
16 committee shall be filled by the appointing authority who made the original
17 appointment.
- 18 (2) On an alternating basis, each co-chair shall have the first option to set the monthly
19 meeting date. A monthly meeting may be canceled by agreement of both co-chairs.
20 The co-chairs shall have joint responsibilities for committee meeting agendas and
21 presiding at committee meetings. A majority of the entire membership of the
22 Government Contract Review Committee shall constitute a quorum, and all actions
23 of the committee shall be by vote of a majority of its entire membership. The
24 members of the committee shall be compensated for attending meetings, as
25 provided in KRS 7.090(3).
- 26 (3) Any professional, clerical, or other employees required by the committee shall be
27 provided in accordance with the provisions of KRS 7.090(4) and (5).

- 1 (4) All proposed personal service contracts, tax incentive agreements, and memoranda
2 of agreement received by the Legislative Research Commission shall be submitted
3 to the committee to:
- 4 (a) Examine the stated need for the service or benefit to the Commonwealth of
5 the motion picture or entertainment production;
 - 6 (b) Examine whether the service could or should be performed by state personnel,
7 for personal service contracts and memoranda of agreement;
 - 8 (c) Examine the amount and duration of the contract or agreement; and
 - 9 (d) Examine the appropriateness of any exchange of resources or responsibilities.
- 10 (5) If the committee determines that the contract service or agreement, other than an
11 emergency contract approved by the secretary of the Finance and Administration
12 Cabinet or his or her designee, is not needed or inappropriate, the motion picture or
13 entertainment production is not beneficial or is inappropriate, the service could or
14 should be performed by state personnel, the amount or duration is excessive, or the
15 exchange of resources or responsibilities are inappropriate, the committee shall
16 attach a written notation of the reasons for its disapproval or objection to the
17 personal service contract, tax incentive agreement, or memorandum of agreement
18 and shall return the personal service contract, tax incentive agreement, or
19 memorandum of agreement to the secretary of the Finance and Administration
20 Cabinet or his or her designee. The committee shall act on a personal service
21 contract, tax incentive agreement, or memorandum of agreement submitted to the
22 Legislative Research Commission within forty-five (45) days of the date received.
- 23 (6) Upon receipt of the committee's disapproval or objection to a personal service
24 contract, tax incentive agreement, or memorandum of agreement, the secretary of
25 the Finance and Administration Cabinet or his or her designee shall determine
26 whether the personal service contract, tax incentive agreement, or memorandum of
27 agreement shall:

- 1 (a) Be revised to comply with the objections of the committee;
- 2 (b) Be canceled and, if applicable, payment allowed for services rendered under
3 the contract or amendment; or
- 4 (c) Be appealed within ten (10) days to the State Treasurer, who shall make a
5 final determination within ten (10) days of receipt of the appeal of whether the
6 personal service contract, tax incentive agreement, or memorandum of
7 agreement shall:
- 8 1. Be revised to comply with the objection of the committee;
- 9 2. Be canceled and, if applicable, payment allowed for services already
10 rendered under the contract or amendment; or
- 11 3. Remain effective as originally submitted.
- 12 (7) Contracting bodies shall make annual reports to the committee not later than
13 December 1 of each year. The committee shall establish reporting procedures for
14 contracting bodies related to personal service contracts, tax incentive agreements,
15 and memoranda of agreement submitted by the secretary of the Finance and
16 Administration Cabinet or his or her designee.
- 17 **(8) (a) Notwithstanding any statute, administrative regulation, or common law to**
18 **the contrary, and except as provided in this subsection, appropriations from**
19 **the general fund, any restricted fund, the road fund, or any federal funds,**
20 **whether for employee time or any other purpose, shall not be expended by**
21 **an elected statewide constitutional officer, except the Attorney General, nor**
22 **by any other state official, employee, or agency, in support of a challenge to**
23 **the constitutionality of this section, whether supporting in the role of**
24 **plaintiff, petitioner, party, intervening party, attorney, amicus curiae, or any**
25 **other capacity.**
- 26 **(b) If the constitutionality of paragraph (a) of this subsection is challenged**
27 **through litigation, the Attorney General shall be the sole named respondent**

1 *for the Commonwealth of Kentucky in such litigation and shall consult with*
2 *the Legislative Research Commission regarding defense of such litigation.*
3 *(c) Notwithstanding the applicable provisions of KRS Chapter 452, such an*
4 *action may be brought only in the county of residence of the vendor who*
5 *was awarded the contract that has been found deficient.*

6 ➔Section 2. If any provision of this Act or the application thereof to any person or
7 circumstance is held invalid, the invalidity shall not affect other provisions or
8 applications of the Act that can be given effect without the invalid provision or
9 application, and to this end the provisions of this Act are severable.

10 ➔Section 3. Whereas the Government Contract Review Committee is a statutory
11 committee meeting monthly and disposing instruments brought before it at those
12 meetings, and it is imperative to ensure that the mechanisms envisioned by the Kentucky
13 General Assembly are effectual, an emergency is declared to exist, and this Act takes
14 effect upon its passage and approval by the Governor or upon its otherwise becoming a
15 law.