

1 AN ACT relating to public funds.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) For the purposes of this section:*

6 *(a) "Lobbying" has the same meaning as in Section 3 of this Act;*

7 *(b) "Public agency" has the same meaning as in KRS 61.870; and*

8 *(c) "Public agent" means any person who engages in lobbying on behalf of or*
9 *as an employee of a public agency.*

10 *(2) A public agency, or any entity created by an act of the General Assembly, shall*
11 *not use local, state, or federal tax dollars for lobbying purposes.*

12 ➔SECTION 2. A NEW SECTION OF KRS 6.601 TO 6.849 IS CREATED TO
13 READ AS FOLLOWS:

14 *(1) If a person believes that Section 1 of this Act has been violated, he or she may file*
15 *a complaint with the commission pursuant to KRS 6.686.*

16 *(2) The commission shall have jurisdiction to investigate and proceed upon receipt of*
17 *any complaint submitted pursuant to this section.*

18 ➔Section 3. KRS 6.611 is amended to read as follows:

19 As used in this code, unless the context requires otherwise:

20 (1) "Adversarial proceeding" means a proceeding in which decisions are made based
21 upon evidence presented as measured against established standards, with parties
22 having the right to appeal the decision on the record to a court;

23 (2) (a) "Anything of value" includes the following:

24 1. A pecuniary item, including money, or a bank bill or note;

25 2. A promissory note, bill of exchange, order, draft, warrant, check, or
26 bond given for the payment of money;

27 3. A contract, agreement, promise, or other obligation for an advance,

- 1 conveyance, forgiveness of indebtedness, deposit, distribution, loan,
2 payment, gift, pledge, or transfer of money;
- 3 4. A stock, bond, note, or other investment interest in an entity;
- 4 5. A receipt given for the payment of money or other property;
- 5 6. A right in action;
- 6 7. A gift, tangible good, chattel, or an interest in a gift, tangible good, or
7 chattel;
- 8 8. A loan or forgiveness of indebtedness;
- 9 9. A work of art, antique, or collectible;
- 10 10. An automobile or other means of personal transportation;
- 11 11. Real property or an interest in real property, including title to realty; a
12 fee simple or partial interest, present or future, contingent or vested,
13 within realty; a leasehold interest; or other beneficial interest in realty;
- 14 12. A rebate or discount in the price of anything of value unless the rebate or
15 discount is made in the ordinary course of business to a member of the
16 public without regard to that person's status as a legislator;
- 17 13. A promise or offer of employment; or
- 18 14. Any other thing of value that is pecuniary or compensatory in value to a
19 person, or the primary significance of which is economic gain.
- 20 (b) "Anything of value" does not include:
- 21 1. A campaign contribution properly received and reported, if reportable,
22 as required under KRS Chapter 121;
- 23 2. Compensation, food, beverages, entertainment, transportation, lodging,
24 or other goods or services extended to a legislator by the legislator's
25 private employer or by a person other than a legislative agent or
26 employer;
- 27 3. A usual and customary commercial loan made in the ordinary course of

- 1 business, without regard to the recipient's status as a legislator, and by a
2 person or institution authorized by law to engage in the business of
3 making loans;
- 4 4. A certificate, plaque, or commemorative token of less than one hundred
5 fifty dollars (\$150) value;
- 6 5. Promotional items of less than fifty dollars (\$50);
- 7 6. Educational items;
- 8 7. Informational items;
- 9 8. The cost of attendance or participation, and of food and beverages
10 consumed, at events:
- 11 a. To which all members of the Kentucky Senate or the Kentucky
12 House of Representatives, or both, are invited;
- 13 b. To which all members of a joint committee or task force of the
14 Kentucky Senate and the Kentucky House of Representatives are
15 invited;
- 16 c. To which a caucus of legislators approved as a caucus by the
17 Legislative Research Commission is invited;
- 18 d. Sponsored or coordinated by a state or local government entity,
19 including a state institution of higher education, provided that the
20 cost thereof is covered by the state or local government entity or
21 state institution of higher education; or
- 22 e. To which an individual legislator is invited that are held in-state,
23 and for which the legislator receives prior approval from a
24 majority of the Legislative Research Commission;
- 25 9. Gifts from a person related by blood or marriage or a member of the
26 legislator's household;
- 27 10. A gift that:

- 1 a. Is not used; and
- 2 b. No later than thirty (30) days after receipt, is returned to the donor
- 3 or delivered to a charitable organization and is not claimed as a
- 4 charitable contribution for federal income tax purposes;
- 5 11. The cost, paid, reimbursed, raised, or obtained by the Legislative
- 6 Research Commission, for attendance or participation, and for food and
- 7 beverages consumed at, and funds, goods, and services provided for
- 8 conducting events sponsored or coordinated by multistate or national
- 9 organizations of, or including, state governments, state legislatures, or
- 10 state legislators if the attendance and expenditures are approved in
- 11 advance by the Legislative Research Commission;
- 12 12. The cost of attendance or participation provided by the sponsoring
- 13 entity, of lodging, and of food and beverages consumed, at in-state
- 14 events sponsored by or in conjunction with a civic, charitable,
- 15 governmental, trade association, or community organization;
- 16 13. A gift or gifts from one member of the General Assembly to another
- 17 member of the General Assembly;
- 18 14. Anything for which the recipient pays or gives full value; or
- 19 15. Any service spontaneously extended to a legislator in an emergency
- 20 situation;
- 21 (3) "Associated," if used with reference to an organization, includes an organization in
- 22 which an individual or a member of the individual's family is a director, officer,
- 23 fiduciary, trustee, agent, or partner, or owns or controls, in the aggregate, an interest
- 24 of ten thousand dollars (\$10,000) or more, or an interest of five percent (5%) or
- 25 more of the outstanding equity;
- 26 (4) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise,
- 27 franchise, association, organization, self-employed individual, holding company,

- 1 joint stock company, receivership, trust, professional service corporation, or any
2 legal entity through which business is conducted for profit;
- 3 (5) "Business associate" includes the following:
- 4 (a) A private employer;
- 5 (b) A general or limited partnership, or a general or limited partner within the
6 partnership;
- 7 (c) A corporation that is family-owned or in which all shares of stock are closely
8 held, and the shareholders, owners, and officers of such a corporation;
- 9 (d) A corporation in which the legislator or other person subject to this code has
10 an investment interest, owns, or has a beneficial interest in shares of stock
11 which constitute more than:
- 12 1. Five percent (5%) of the value of the corporation; or
13 2. Ten thousand dollars (\$10,000) at fair market value;
- 14 (e) A corporation, business association, or other business entity in which the
15 legislator or other person subject to this code serves as an agent or a
16 compensated representative;
- 17 (6) "Candidate" means an individual who seeks nomination or election to the General
18 Assembly. An individual is a candidate when the individual:
- 19 (a) Files a notification and declaration for nomination for office with the
20 Secretary of State; or
- 21 (b) Is nominated for office by his or her party under KRS 118.105, 118.115,
22 118.325, or 118.760;
- 23 (7) "Charitable organization" means an organization described in 26 U.S.C. Sec. 170(c)
24 as it currently exists or as it may be amended;
- 25 (8) "Child" means the unemancipated minor daughter, son, stepdaughter, or stepson;
- 26 (9) "Commission" means the Kentucky Legislative Ethics Commission;
- 27 (10) (a) "Compensation" means:

- 1 1. An advance, salary, conveyance, forgiveness of indebtedness, deposit,
2 distribution, loan, payment, gift, pledge, or transfer of money; or
3 2. A contract, agreement, promise, or other obligation for an advance,
4 conveyance, forgiveness of indebtedness, deposit, distribution, loan,
5 payment, gift, pledge, or transfer of money for services rendered or to be
6 rendered.
- 7 (b) "Compensation" does not include reimbursement of expenses if:
- 8 1. The reimbursement is equal to, or less than, the amount paid for the
9 expenses;
10 2. Expense records are itemized; and
11 3. No portion of the reimbursed expense is used to give anything of value
12 to a legislator, candidate, or the spouse of a legislator or candidate;
- 13 (11) "Economic interest" means an interest distinct from that of the general public in a
14 state purchase, sale, lease, contract, option, or other transaction or arrangement
15 involving property or services in which a legislator may gain an economic benefit of
16 fifty dollars (\$50) or more;
- 17 (12) "Employer" means any person who engages a legislative agent and in the case of a
18 business other than a sole proprietorship or self-employed individual, it means the
19 business entity, and not an individual officer, director, or employee thereof, except
20 when an officer, director, or employee makes an expenditure for which he or she is
21 reimbursed by the business entity;
- 22 (13) "Engage" means to make any arrangement, and "engagement" means any
23 arrangement, by which an individual is employed or retained for compensation to
24 act for or on behalf of an employer to lobby;
- 25 (14) "Ethical misconduct" means any violation of the Kentucky Code of Legislative
26 Ethics;
- 27 (15) (a) "Expenditure" means any of the following that is made to, at the request of,

1 for the benefit of, or on behalf of any member of the General Assembly, the
2 Governor, the secretary of a cabinet listed in KRS 12.250, or any member of
3 the staff of any of those officials:

- 4 1. A payment, distribution, loan, advance, deposit, reimbursement, or gift
5 of money, real estate, or anything of value, including, but not limited to,
6 food and beverages, entertainment, lodging, transportation, or honoraria;
- 7 2. A contract, promise, or agreement, to make an expenditure; or
- 8 3. The purchase, sale, or gift of services or any other thing of value.

9 (b) "Expenditure" does not include a contribution, gift, or grant to a foundation or
10 other charitable organization that is exempt from federal income taxation
11 under Section 501(c)(3) of the Internal Revenue Code. "Expenditure" does not
12 include the purchase, sale, or gift of services or any other thing of value that is
13 available to the general public on the same terms as it is available to the
14 persons listed in this subsection;

15 (16) "Family member" means a person:

- 16 (a) Who is the spouse, parent, sibling, child, mother-in-law, father-in-law, son-in-
17 law, daughter-in-law, grandparent, or grandchild of an individual; or
- 18 (b) Who is a member of the individual's household, and is dependent upon the
19 individual;

20 (17) "Filer" means an individual who is required to file a statement of financial interests
21 pursuant to KRS 6.781;

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

- 26 1. A legislative agent, his or her employer, or a member of the immediate
27 family of the legislative agent or his or her employer; and

1 2. Any member of the General Assembly, the Governor, the secretary of a
2 cabinet listed in KRS 12.250, or any member of the staff of any of the
3 officials listed in this subparagraph.

4 (b) "Financial transaction" does not include any transaction or activity:

5 1. Described in paragraph (a) of this subsection if it is available to the
6 general public on the same or similar terms and conditions; or

7 2. Made or let after public notice and competitive bidding or contracts that
8 are available on similar terms to other members of the general public.

9 (19) "Former legislator" means a person who previously held a position as a legislator
10 and who no longer holds that position;

11 (20) "Immediate family" means an unemancipated child residing in an individual's
12 household, a spouse of an individual, or a person claimed by the individual as a
13 dependent for tax purposes;

14 (21) "In-state" means within the borders of Kentucky or outside Kentucky in a county
15 that is contiguous with the border of Kentucky;

16 (22) "Legislation" means bills, resolutions, amendments, nominations, administrative
17 regulations, and any other matter pending before the General Assembly or any of its
18 interim or statutory committees, or the executive approval or veto of any bill acted
19 upon by the General Assembly;

20 (23) (a) "Legislative agent" means any individual who is engaged:

21 1. During at least a portion of his or her time to lobby as one (1) of his or
22 her official responsibilities;~~or~~

23 2. In lobbying activities as a legislative liaison of an association, coalition,
24 or public interest entity formed for the purpose of promoting or
25 otherwise influencing legislation; or

26 3. In lobbying activities as a public agent as defined in Section 1 of this
27 Act.

- 1 (b) "Legislative agent" does not include:
- 2 1. Any person who limits his or her lobbying activities to appearing before
- 3 public meetings of legislative committees, subcommittees, or task
- 4 forces, or public hearings or meetings of public agencies;
- 5 2. A private citizen who receives no compensation for lobbying and who
- 6 expresses a personal opinion; or
- 7 3. A public servant acting in his or her fiduciary capacity as a
- 8 representative of his or her ~~agency, college, university, or~~ city, county,
- 9 urban-county, consolidated local government, unified local government,
- 10 or charter county government, except persons engaged by a de jure
- 11 municipal corporation, such as the Kentucky Lottery Corporation or the
- 12 Kentucky Housing Corporation, ***or by*** institutions of higher education,
- 13 or ***by*** local governments, whose primary responsibility during sessions
- 14 of the General Assembly is to lobby;
- 15 (24) "Legislative interest" means a substantial economic interest, distinct from that of the
- 16 general public, in one (1) or more legislative matters;
- 17 (25) "Legislative matter" means any bill, resolution, nomination, or other issue or
- 18 proposal pending before the General Assembly or any interim committee,
- 19 committee, subcommittee, task force, or commission of the General Assembly;
- 20 (26) "Legislator" means a member or member-elect of the General Assembly;
- 21 (27) (a) "Lobby" means to promote, advocate, or oppose the passage, modification,
- 22 defeat, or executive approval or veto of any legislation by direct
- 23 communication with any member of the General Assembly, the Governor, the
- 24 secretary of any cabinet listed in KRS 12.250, or any member of the staff of
- 25 any of the officials listed in this paragraph.
- 26 (b) "Lobbying" does not include:
- 27 1. Appearances before public meetings of the committees, subcommittees,

- 1 task forces, and interim committees of the General Assembly;
- 2 2. News, editorial, and advertising statements published in newspapers,
3 journals, or magazines, or broadcast over radio or television;
- 4 3. The gathering and furnishing of information and news by bona fide
5 reporters, correspondents, or news bureaus to news media described in
6 paragraph (b)2. of this subsection;
- 7 4. Publications primarily designed for, and distributed to, members of bona
8 fide associations or charitable or fraternal nonprofit corporations;
- 9 5. Professional services in drafting bills or resolutions, preparing
10 arguments on these bills or resolutions, or in advising clients and
11 rendering opinions as to the construction and the effect of proposed or
12 pending legislation, if the services are not otherwise connected with
13 lobbying; or
- 14 6. The action of any person not engaged by an employer who has a direct
15 interest in legislation, if the person, acting under Section 1 of the
16 Kentucky Constitution, assembles together with other persons for their
17 common good, petitions any official listed in this subsection for the
18 redress of grievances, or other proper purposes;
- 19 (28) "Person" means an individual, proprietorship, firm, partnership, joint venture, joint
20 stock company, syndicate, business, trust, estate, company, corporation, association,
21 club, committee, organization, or group of persons acting in concert;
- 22 (29) "Public servant" means an elected or appointed officer or employee of a federal or
23 state agency; state institution of higher education; or a city, county, urban-county, or
24 charter county government;
- 25 (30) "State agency" means any department, office, commission, board, or authority
26 within the executive department, and includes state-supported universities and
27 colleges but does not include local boards of education; and

1 (31) "Through others" means a scheme, artifice, or mechanism, the sole purpose of
2 which is to accomplish by indirect means, using third parties, results which would
3 be unlawful under this code if accomplished directly between a legislator or
4 candidate and another person or entity.

5 ➔Section 4. KRS 6.691 is amended to read as follows:

6 (1) The Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence shall
7 apply to all commission adjudicatory hearings. All testimony in a commission
8 adjudicatory proceeding shall be under oath. All parties shall have the right to call
9 and examine witnesses, to introduce exhibits, to cross-examine witnesses, to submit
10 evidence, and to be represented by counsel and any other due process rights,
11 privileges, and responsibilities of a witness appearing before the courts of the
12 Commonwealth of Kentucky. Before testifying, all witnesses shall be given a copy
13 of the regulations governing commission proceedings. All witnesses shall be
14 entitled to be represented by counsel.

15 (2) Any person whose name is mentioned during adjudicatory proceedings of the
16 commission and who may be adversely affected thereby may appear personally
17 before the commission on the person's own behalf, with or without attorney, to give
18 a statement in opposition to such adverse mention or file a written statement of that
19 opposition for incorporation into the record of proceeding.

20 (3) All adjudicatory proceedings of the commission carried out pursuant to the
21 provisions of this section shall be public, unless the members vote to go into
22 executive session in accordance with KRS 61.810.

23 (4) Within thirty (30) days after the end of an adjudicatory proceeding pursuant to the
24 provisions of this section, the commission shall meet in executive session for the
25 purpose of reviewing the evidence before it. Within thirty (30) days after
26 completion of deliberations, the commission shall publish a written report of its
27 findings and conclusions which shall be based on whether the person accused has

1 complied with the statute as written.

2 (5) No penalty provided for in this section shall be imposed except as the result of an
3 adjudicatory proceeding held upon the filing of a complaint. Notwithstanding the
4 administrative penalties provided for in KRS 6.797, 6.807, and 6.821, the
5 commission, upon a finding pursuant to an adjudicatory proceeding that there has
6 been clear and convincing proof of a violation of this code, may:

- 7 (a) Issue an order requiring the violator to cease and desist the violation;
- 8 (b) Issue an order requiring the violator to file any report, statement, or other
9 information as required by this code;
- 10 (c) In writing, publicly reprimand the violator for potential violations of the law
11 and provide a copy of the reprimand to the presiding officer of the house in
12 which the alleged violator serves;
- 13 (d) In writing, recommend to the house in which the violator serves that the
14 violator be sanctioned as recommended by the commission, which may
15 include a recommendation for censure or expulsion;
- 16 (e) Issue an order requiring the violator to pay a civil penalty of not more than
17 two thousand dollars (\$2,000); or
- 18 (f) Revoke the registration of any legislative agent or employer for a period not to
19 exceed five (5) years. During the period of the revocation, the agent or
20 employer or any other entity which constitutes nothing more than the
21 legislative agent or employer operating under a different name or identity shall
22 not be permitted to register as a legislative agent or employer.

23 **(6) (a) The commission shall have the authority to impose sanctions under this**
24 **section on a public agency or a public agent who are found to have violated**
25 **Section 1 of this Act.**

26 **(b) Notwithstanding subsection (5)(e) of this section, the commission may, in**
27 **addition to the penalties prescribed in subsection (5) of this section, issue an**

1 *order requiring a public agency or public agent to pay a civil penalty of not*
 2 *less than two thousand dollars (\$2,000) but not more than ten thousand*
 3 *dollars (\$10,000), for each violation of Section 1 of this Act.*

4 ~~(7)~~[(6)] The commission may refer to the Attorney General, county attorney, or
 5 Commonwealth's attorney of the appropriate jurisdiction, for prosecution evidence
 6 of criminal violations of this code. The Attorney General shall have responsibility
 7 for all prosecutions under the law and may request from the commission all
 8 evidence collected in its investigation.

9 ~~(8)~~[(7)] Findings of fact or final determinations by the commission that a violation of
 10 this code has been committed, or any testimony related to the commission's findings
 11 of fact or final determinations, shall not be admissible in criminal proceedings in
 12 the courts of the Commonwealth of Kentucky. Evidence collected by the
 13 commission may be used in a criminal proceeding if otherwise relevant.

14 ~~(9)~~[(8)] Any person found by the commission to have committed a violation of this
 15 code may appeal the action to the Franklin Circuit Court. The appeal shall be
 16 initiated within thirty (30) days after the date of the final action of the commission
 17 by filing a petition with the court against the commission. The commission shall
 18 transmit to the clerk of the court all evidence considered by the commission at the
 19 public hearing. The court shall hear the appeal upon the record as certified by the
 20 commission.

21 ➔Section 5. KRS 6.945 is amended to read as follows:

22 (1) The General Assembly shall not impose requirements on cities of any class that
 23 require city expenditures or tax levies unless:

24 (a) The requirements are fully funded by the General Assembly; or

25 (b) The requirements are contingent on the approval of the city legislative body.

26 (2) Subsection (1) of this section shall not apply if the requirements are the result of a
 27 federal mandate, but in no case shall the requirements described in this section

1 extend beyond the requirements of the federal mandate.

2 (3) Nothing in this section shall affect the obligations under KRS 6.955 to 6.975,
3 78.510 to 78.852, or any other retirement system or plan established by Kentucky
4 law.

5 **(4) Nothing in this section shall affect the requirements of Section 1 of this Act.**

6 ➔Section 6. This Act may be cited as the Kentucky Citizen's Voice Protection
7 Act.