

1 AN ACT relating to state constitutional officer transitions.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Executive branch official" means all major management personnel of the
7 Office of the Governor, Office of the Lieutenant Governor, Secretary of
8 State, Attorney General, Auditor of Public Accounts, State Treasurer, and
9 Commissioner of Agriculture, including but not limited to cabinet
10 secretaries, deputy cabinet secretaries, chief executive officers, general
11 counsels, commissioners, deputy commissioners, executive directors,
12 executive assistants, policy advisors, special assistants, administrative
13 coordinators, executive advisors, staff assistants, and division directors; and
14 (b) "State constitutional officer" means the Governor, Lieutenant Governor,
15 Secretary of State, Attorney General, Auditor of Public Accounts, State
16 Treasurer, and Commissioner of Agriculture.

17 (2) Notwithstanding any law to the contrary, at any time during the twelve (12)
18 months before and twelve (12) months after a state constitutional officer takes his
19 or her oath of office, any person:

20 (a) Involved in conduct relating to the transition between outgoing and
21 incoming state constitutional officers that may result in a criminal
22 prosecution of the person or a violation of a state ethics law by the person,
23 including but not limited to the Executive Branch Code of Ethics pursuant
24 to KRS Chapter 11A and the Kentucky Code of Legislative Ethics pursuant
25 to KRS 6.601 to 6.849; and

26 (b) Who brings forth evidence against an executive branch official who was
27 involved with or directed the person to perform the conduct described in

1 paragraph (a) of this subsection;
2 shall be immune from criminal prosecution for the conduct, and shall not be
3 subject to any penalty resulting from an ethical violation pertaining to his or her
4 involvement in the conduct if the evidence he or she brought forth assists in the
5 criminal prosecution of, or a finding of an ethical violation against, the
6 applicable executive branch official.

7 (3) A person shall not be immune from criminal prosecution and shall be subject to
8 any ethical violation pertaining to his or her involvement with the conduct
9 described in subsection (2)(a) of this section if he or she commits perjury. Any
10 testimony or evidence given or produced shall be admissible against the person
11 upon any criminal action, investigation, or proceeding concerning the perjury in
12 addition to any conduct described in subsection (2)(a) of this section.

13 ➔Section 2. KRS 15.020 is amended to read as follows:

14 (1) The Attorney General is the chief law officer of the Commonwealth of Kentucky
15 and all of its departments, commissions, agencies, and political subdivisions, and
16 the legal adviser of all state officers, departments, commissions, and agencies, and
17 when requested in writing shall furnish to them his or her written opinion touching
18 any of their official duties, and shall prepare proper drafts of all instruments of
19 writing required for public use, and shall exercise all common law duties and
20 authority pertaining to the office of the Attorney General under the common law,
21 except when modified by statutory enactment.

22 (2) The Attorney General shall communicate with the Legislative Research
23 Commission as required by KRS 418.075.

24 (3) (a) Except as otherwise provided in KRS 48.005 and 2000 Ky. Acts ch. 483,
25 sec. 8, the Attorney General shall appear for the Commonwealth in all cases
26 in the Supreme Court or Court of Appeals wherein the Commonwealth is
27 interested, and shall also commence all actions or enter an appearance in all

1 cases, hearings, and proceedings in and before all other courts, tribunals, or
2 commissions in or out of the state, and attend to all litigation and legal
3 business in or out of the state required of the office by law, or in which the
4 Commonwealth has an interest, and any litigation or legal business that any
5 state officer, department, commission, or agency may have in connection
6 with, or growing out of, his, her, or its official duties, except where it is made
7 the duty of the Commonwealth's attorney or county attorney to represent the
8 Commonwealth. When any attorney is employed for any said agency, the
9 same shall have the approval of such agency before such employment.

10 **(b) 1. As used in this paragraph, "entity of the executive branch" means:**

11 **a. Any department, program cabinet, or administrative body**
12 **enumerated in KRS 12.020;**

13 **b. Any department, office, administrative body, or executive branch**
14 **agency attached to an executive branch department or program**
15 **cabinet enumerated in KRS 12.020; or**

16 **c. Any officer of any department, office, program cabinet,**
17 **administrative body, or executive branch agency listed in**
18 **subdivision a. or b. of this subparagraph.**

19 **2. a. Within one hundred eighty (180) days before a gubernatorial**
20 **inauguration, the Attorney General shall, in consultation with**
21 **the secretary of the Finance and Administration Cabinet, review**
22 **and approve or disapprove any settlement of pending or**
23 **threatened litigation involving an entity of the executive branch**
24 **in which the settlement amount exceeds one million dollars**
25 **(\$1,000,000).**

26 **b. A settlement shall not be entered into or approved by an entity of**
27 **the executive branch without prior approval of the Attorney**

General as provided in subdivision a. of this subparagraph.

3. The requirements of this paragraph shall apply to any program cabinet, department, administrative body, or agency created by or attached to an entity of the executive branch after the effective date of this Act.

(4) Notwithstanding any other statute or provision to the contrary, the Attorney General may bring any action challenging the constitutionality of a Kentucky statute, executive order, administrative regulation, or order of any cabinet, program cabinet, or department under KRS Chapter 12. The action may be brought in any county where the alleged constitutional harm has occurred or could be reasonably presumed to occur.

(5) If any funds of any kind or nature whatsoever are recovered by or on behalf of the Commonwealth, in any action, including an ex rel. action where the Attorney General has entered an appearance or is a party according to statutory or common law authority, those funds shall be handled under KRS 48.005.

➔Section 3. KRS 18A.111 is amended to read as follows:

(1) Except when appointed to a job classification with an initial probationary period in excess of six (6) months, and except as provided in KRS 18A.005 and this section, an employee shall serve a six (6) months probationary period when he or she is initially appointed to the classified service. An employee may be separated from his or her position, reduced in class or rank, or replaced on the eligible list during this initial probationary period and shall not have a right to appeal, except as provided by KRS 18A.095. The employee may be placed on an eligible list but shall not be certified to the agency from which he or she was separated unless that agency so requests. Unless the appointing authority notifies the employee prior to the end of the initial probationary period that he or she is separated, the employee shall be deemed to have served satisfactorily and shall acquire status in the classified

1 service.

2 (2) An employee who satisfactorily completes the initial probationary period for the
3 position to which he or she was initially appointed to the classified service shall be
4 granted status and may not be demoted, disciplined, dismissed, or otherwise
5 penalized, except as provided by the provisions of this chapter.

6 (3) An employee ordered reinstated by the board shall not be required to serve a
7 probationary period unless the board rules otherwise.

8 (4) An employee with status, who has been promoted, shall serve a promotional
9 probationary period of six (6) months, except for those employees granted leave in
10 excess of twenty (20) consecutive work days during this period. Such probationary
11 periods shall be extended as prescribed in KRS 18A.005. During this period, he or
12 she shall retain the rights and privileges granted by the provisions of this chapter to
13 status employees.

14 (5) An employee with status may request that he or she be reverted to a position in his
15 or her former class at any time during the promotional probationary period.

16 (6) A laid-off employee who accepts a bona fide written offer of appointment to a
17 position shall not be required to serve an initial probationary period. He or she shall
18 be an employee with status and shall have all rights and privileges granted
19 employees with status under the provisions of this chapter.

20 (7) At any time in the eighteen (18) months prior to a gubernatorial inauguration, a
21 person who is appointed to a position in the classified service and who previously
22 held a position that was unclassified under subsection (1) of Section 4 of this Act
23 shall:

24 (a) Be required to serve an initial probationary period of twenty-four (24)
25 months regardless of whether he or she previously had status in the
26 classified service; and

27 (b) Not be entitled to any preference in hiring or reemployment,

1 ~~**notwithstanding KRS 18A.130 and 18A.135**~~ [A former unclassified employee
2 under ~~KRS 18A.115(1)(d), (e), (f), (g), (h), or (i)~~ shall serve an initial
3 probationary period of twelve (12) months if the employee is appointed to a
4 position in the classified service, unless that employee had previously had
5 status in the classified service or had been separated from his or her previous
6 unclassified position for at least one hundred eighty (180) days prior to the
7 effective date of his or her appointment to the classified service].

8 (8) Notification to an employee on initial or promotional probation of the reason the
9 probationary employment has been terminated by the appointing authority shall not
10 confer a right to appeal to the board.

11 ➔Section 4. KRS 18A.115 is amended to read as follows:

12 (1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise
13 all positions in the state service now existing or hereafter established, except the
14 following:

- 15 (a) The General Assembly and employees of the General Assembly, including the
16 employees of the Legislative Research Commission;
- 17 (b) Officers elected by popular vote and persons appointed to fill vacancies in
18 elective offices;
- 19 (c) Members of boards and commissions;
- 20 (d) Officers and employees on the staff of the Governor, the Lieutenant
21 Governor, the Office of the Secretary of the Governor's Cabinet, and the
22 Office of Program Administration;
- 23 (e) Cabinet secretaries, commissioners, office heads, and the administrative heads
24 of all boards and commissions, including the executive director of Kentucky
25 Educational Television;
- 26 (f) Employees of Kentucky Educational Television who have been determined to
27 be exempt from classified service by the Kentucky Authority for Educational

- 1 Television, which shall have sole authority over such exempt employees for
2 employment, dismissal, and setting of compensation, up to the maximum
3 established for the executive director and his or her principal assistants;
- 4 (g) One (1) principal assistant or deputy for each person exempted under
5 subsection (1)(e) of this section;
- 6 (h) One (1) additional principal assistant or deputy as may be necessary for
7 making and carrying out policy for each person exempted under subsection
8 (1)(e) of this section in those instances in which the nature of the functions,
9 size, or complexity of the unit involved are such that the secretary approves
10 such an addition on petition of the relevant cabinet secretary or department
11 head and such other principal assistants, deputies, or other major assistants as
12 may be necessary for making and carrying out policy for each person
13 exempted under subsection (1)(e) of this section in those instances in which
14 the nature of the functions, size, or complexity of the unit involved are such
15 that the board may approve such an addition or additions on petition of the
16 department head approved by the secretary. Effective August 1, 2010:
- 17 1. All positions approved under this paragraph prior to August 1, 2010,
18 shall be abolished effective December 31, 2010, unless reapproved
19 under subparagraph 2. of this paragraph; and
- 20 2. A position approved under this paragraph on or after August 1, 2010,
21 shall be approved for a period of five (5) years, after which time the
22 position shall be abolished unless reapproved under this subparagraph
23 for an additional five (5) year period;
- 24 (i) Division directors subject to the provisions of KRS 18A.170. Division
25 directors in the classified service as of January 1, 1980, shall remain in the
26 classified service;
- 27 (j) Physicians employed as such;

- 1 (k) One (1) private secretary for each person exempted under subsection (1)(e),
2 (g), and (h) of this section;
- 3 (l) The judicial department, referees, receivers, jurors, and notaries public;
- 4 (m) Officers and members of the staffs of state universities and colleges and
5 student employees of such institutions; officers and employees of the
6 Teachers' Retirement System; and officers, teachers, and employees of local
7 boards of education;
- 8 (n) Patients or inmates employed in state institutions;
- 9 (o) Persons employed in a professional or scientific capacity to make or conduct a
10 temporary or special inquiry, investigation, or examination on behalf of the
11 General Assembly, or a committee thereof, or by authority of the Governor,
12 and persons employed by state agencies for a specified, limited period to
13 provide professional, technical, scientific, or artistic services under the
14 provisions of KRS 45A.690 to 45A.725;
- 15 (p) Interim employees;
- 16 (q) Officers and members of the state militia;
- 17 (r) Department of Kentucky State Police troopers;
- 18 (s) University or college engineering students or other students employed part-
19 time or part-year by the state through special personnel recruitment programs;
20 provided that while so employed such aides shall be under contract to work
21 full-time for the state after graduation for a period of time approved by the
22 commissioner or shall be participants in a cooperative education program
23 approved by the commissioner;
- 24 (t) Superintendents of state mental institutions, including heads of centers for
25 individuals with an intellectual disability, and penal and correctional
26 institutions as referred to in KRS 196.180(2);
- 27 (u) Staff members of the Kentucky Historical Society, if they are hired in

- 1 accordance with KRS 171.311;
- 2 (v) County and Commonwealth's attorneys and their respective appointees;
- 3 (w) Chief district engineers and the state highway engineer;
- 4 (x) Employees of the Kentucky Horse Racing and Gaming Corporation;
- 5 (y) Employees of the Kentucky Peace Corps;
- 6 (z) Employees of the Council on Postsecondary Education;
- 7 (aa) Executive director of the Commonwealth Office of Technology;
- 8 (ab) Employees of Serve Kentucky;
- 9 (ac) Persons employed in certified teaching positions at the Kentucky School for
- 10 the Blind and the Kentucky School for the Deaf;
- 11 (ad) Federally funded time-limited employees as defined in KRS 18A.005; and
- 12 (ae) Employees of the Department of Agriculture who are employed to support the
- 13 Agricultural Development Board and the Kentucky Agricultural Finance
- 14 Corporation.
- 15 (2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or
- 16 amend the provisions of KRS 150.022 and 150.061.
- 17 (3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any
- 18 nonmanagement, nonpolicy-making position **required to**~~[which must]~~ be included
- 19 in the classified service as a prerequisite to the grant of federal funds to a state
- 20 agency.
- 21 (4) Career employees within the classified service promoted to positions exempted
- 22 from classified service shall, upon termination of their employment in the exempted
- 23 service, revert to a position in that class in the agency from which they were
- 24 terminated if a vacancy in that class exists. If no such vacancy exists, they shall be
- 25 considered for employment in any vacant position for which they were qualified
- 26 pursuant to KRS 18A.130 and 18A.135, **but shall be subject to the limitations**
- 27 **specified in subsection (7) of Section 3 of this Act.**

- 1 (5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing
2 officers from filling unclassified positions in the manner in which positions in the
3 classified service are filled except as otherwise provided in KRS 18A.005 to
4 18A.200.
- 5 (6) The positions of employees who are transferred, effective July 1, 1998, from the
6 Cabinet for Workforce Development to the Kentucky Community and Technical
7 College System shall be abolished and the employees' names removed from the
8 roster of state employees. Employees that are transferred, effective July 1, 1998, to
9 the Kentucky Community and Technical College System under KRS Chapter 164
10 shall have the same benefits and rights as they had under KRS Chapter 18A and
11 have under KRS 164.5805; however, they shall have no guaranteed reemployment
12 rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An
13 employee who seeks reemployment in a state position under KRS Chapter 151B or
14 KRS Chapter 18A shall have years of service in the Kentucky Community and
15 Technical College System counted towards years of experience for calculating
16 benefits and compensation.
- 17 (7) On August 15, 2000, all certified and equivalent personnel, all unclassified
18 personnel, and all certified and equivalent and unclassified vacant positions in the
19 Department for Adult Education and Literacy shall be transferred from the
20 personnel system under KRS Chapter 151B to the personnel system under KRS
21 Chapter 18A. The positions shall be deleted from the KRS Chapter 151B personnel
22 system. All records shall be transferred including accumulated annual leave, sick
23 leave, compensatory time, and service credit for each affected employee. The
24 personnel officers who administer the personnel systems under KRS Chapter 151B
25 and KRS Chapter 18A shall exercise the necessary administrative procedures to
26 effect the change in personnel authority. No certified or equivalent employee in the
27 Department for Adult Education and Literacy shall suffer any penalty in the

1 transfer.

2 (8) On August 15, 2000, secretaries and assistants attached to policymaking positions
3 in the Department for Technical Education and the Department for Adult Education
4 and Literacy shall be transferred from the personnel system under KRS Chapter
5 151B to the personnel system under KRS Chapter 18A. The positions shall be
6 deleted from the KRS Chapter 151B system. All records shall be transferred
7 including accumulated annual leave, sick leave, compensatory time, and service
8 credit for each affected employee. No employee shall suffer any penalty in the
9 transfer.

10 (9) On May 1, 2017, all contract employees of Eastern Kentucky University who are
11 engaged in providing instructional and support services to the Department of
12 Criminal Justice Training shall be transferred to the personnel system under KRS
13 Chapter 18A. All records shall be transferred, including accumulated annual leave,
14 sick leave, compensatory time, and service credit for each affected employee. The
15 personnel officers who administer the personnel systems for Eastern Kentucky
16 University and under KRS Chapter 18A shall exercise the necessary administrative
17 procedures to effect the change in personnel authority. No employee shall suffer
18 any penalty in the transfer.

19 (10) On July 1, 2024, all employees of the Louisville and Jefferson County Public
20 Defender Corporation shall be transferred to the personnel system under KRS
21 Chapter 18A. Records of each employee's job classification, compensation, dates of
22 employment, dates of professional licensure, probationary status, accumulated leave
23 balances by category, months of service, and any other information necessary under
24 KRS Chapter 18A shall be transferred. The personnel officers who administer the
25 personnel systems for the Louisville and Jefferson County Public Defender
26 Corporation and under KRS Chapter 18A shall exercise the necessary
27 administrative procedures to effect the change in the personnel authority. No

1 employee shall suffer any penalty in the transfer.

2 ➔ Section 5. KRS 45A.095 is amended to read as follows:

3 (1) **As used in**~~[For purposes of]~~ this section:

4 (a) "Emergency condition" means a situation which creates a threat or impending
5 threat to public health, welfare, or safety such as may arise by reason of fires,
6 floods, tornadoes, other natural or man-caused disasters, epidemics, riots,
7 enemy attack, sabotage, explosion, power failure, energy shortages,
8 transportation emergencies, equipment failures, state or federal legislative
9 mandates, or similar events. The existence of the emergency condition creates
10 an immediate and serious need for services, construction, or items of tangible
11 personal property that cannot be met through normal procurement methods
12 and the lack of which would seriously threaten the functioning of government,
13 the preservation or protection of property, or the health or safety of any
14 person;

15 **(b) "Executive branch agency" means all executive branch departments,**
16 **offices, program cabinets and their respective departments, and**
17 **administrative bodies enumerated in KRS 12.020, and any other executive**
18 **branch agencies immediately attached to a department, office, program**
19 **cabinet, or administrative body enumerated in KRS 12.020;** and

20 **(c)**~~(b)~~ "Sole source" means a situation in which there is only one (1) known
21 capable supplier of a commodity or service, occasioned by the unique nature
22 of the requirement, the supplier, or market conditions.

23 (2) A contract may be made by noncompetitive negotiation only:

24 (a) For sole source purchases;

25 (b) When competition is not feasible, as determined by the purchasing officer in
26 writing prior to award, under administrative regulations promulgated by the
27 secretary of the Finance and Administration Cabinet or the governing boards

- 1 of universities operating under KRS Chapter 164A;
- 2 (c) When emergency conditions exist; or
- 3 (d) For sponsorships, naming rights, or other advertising or similar considerations
- 4 for which competition is not feasible.
- 5 (3) Insofar as it is practical, no fewer than three (3) suppliers shall be solicited to
- 6 submit written or oral quotations whenever it is determined that competitive sealed
- 7 bidding is not feasible. Award shall be made to the supplier offering the best value.
- 8 The names of the suppliers submitting quotations and the date and amount of each
- 9 quotation shall be placed in the procurement file and maintained as a public record.
- 10 (4) Competitive bids may not be required:
- 11 (a) For contractual services where no competition exists, such as telephone
- 12 service, electrical energy, and other public utility services;
- 13 (b) Where rates are fixed by law or ordinance;
- 14 (c) For library books;
- 15 (d) For commercial items that are purchased for resale;
- 16 (e) For interests in real property;
- 17 (f) For visiting speakers, professors, expert witnesses, and performing artists;
- 18 (g) For personal service contracts executed pursuant to KRS 45A.690 to 45A.725;
- 19 (h) For agricultural products in accordance with KRS 45A.645; and
- 20 (i) For contracts entered into by the president of the Kentucky Horse Park for
- 21 emergency purchases pursuant to KRS 148.320(5).
- 22 (5) The chief procurement officer, the head of a using agency, or a person authorized in
- 23 writing as the designee of either officer may make or authorize others to make
- 24 emergency procurements when an emergency condition exists.
- 25 (6) The Finance and Administration Cabinet may negotiate directly for the purchase of
- 26 contractual services, supplies, materials, or equipment in bona fide emergencies
- 27 regardless of estimated costs. The existence of the emergency shall be fully

1 explained, in writing, by the head of the agency for which the purchase is to be
2 made. The explanation shall be approved by the secretary of the Finance and
3 Administration Cabinet and shall include the name of the vendor receiving the
4 contract along with any other price quotations and a written determination for
5 selection of the vendor receiving the contract. This information shall be filed with
6 the record of all such purchases and made available to the public. Where practical,
7 standard specifications shall be followed in making emergency purchases. In any
8 event, every effort should be made to effect a competitively established price for
9 purchases made by the state.

10 (7) Subsection (6) of this section shall not apply to emergency purchases made
11 pursuant to KRS 148.320(5).

12 **(8) In the one hundred eighty (180) days preceding a gubernatorial inauguration, an**
13 **executive branch agency may execute or renew a contract by noncompetitive**
14 **negotiation only when the secretary of the Finance and Administration Cabinet**
15 **and the State Treasurer both certify that the contract is necessary because of the**
16 **existence of an emergency condition.**

17 ➔Section 6. KRS 171.530 is amended to read as follows:

18 **(1) Except as provided in subsection (2) of this section,** the commission shall establish
19 standards for the selective retention of records of continuing value, and the
20 department shall assist state and local agencies in applying such standards to
21 records in their custody. The department shall notify the head of any such agency of
22 any actual, impending, or threatening unlawful removal, defacing, alteration, or
23 destruction of records in the custody of such agency that has come to its attention,
24 and initiate action through the agency head or Attorney General for the recovery of
25 such records as shall have been unlawfully removed and for such other redress as
26 may be provided by law.

27 **(2) (a) For a period of twelve (12) months prior to the date of a gubernatorial**

inauguration, all documents that are public records as defined in KRS 61.870 shall be preserved for the Governor-elect and his or her gubernatorial transition team if the subject matter includes:

1. Contracts that have been granted, altered, or amended;

2. Appointments to boards and commissions;

3. Permits and licenses granted and revoked;

4. Pardons;

5. Pay raises, promotions, and grade level changes of executive branch employees;

6. Litigation; or

7. Any record relating to campaign donations of any kind.

(b) On the day after the Governor-elect is determined, the Governor shall make available to the Governor-elect and his or her gubernatorial transition team all public records pertaining to the subjects referenced in paragraph (a) of this subsection.

➔Section 7. KRS 171.990 is amended to read as follows:

(1) Any person or library board violating any of the provisions of KRS 171.240 to 171.300 shall be fined not less than ten (\$10) nor more than one hundred dollars (\$100) for each offense.

(2) The board for certification of librarians may revoke the certificate of any person violating any of the provisions of KRS 171.240 to 171.300, or any of the regulations as established by the board for certification.

(3) Any person knowingly violating the rules and regulations of the department pursuant to the provisions of KRS 171.450, 171.560, 171.670, 171.710, or 171.720 or subsection (2) of Section 6 of this Act is guilty of a Class A misdemeanor and is also liable for damages or losses incurred by the Commonwealth. Any state employee who knowingly violates these provisions shall also be subject to

1 dismissal from state employment upon a determination of fact, at a hearing, that a
2 serious violation did occur. The employee's right to appeal to the state personnel
3 board **shall not be**~~[is not]~~ abridged or denied. In the event of an appeal, the decision
4 of the state personnel board is final. **The Attorney General shall have concurrent**
5 **original jurisdiction to enforce this subsection.**

6 (4) State employees dismissed under the provision of subsection (3) of this section shall
7 have the right to reapply for state employment in accordance with state personnel
8 rules governing dismissal. Such individuals shall have the full rights and privileges
9 accorded under applicable equal opportunity laws.