

1 AN ACT relating to executive branch ethics.

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

3 ➔Section 1. KRS 11A.010 is amended to read as follows:

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

- 5 (1) "Business" means any corporation, limited liability company, partnership, limited
6 partnership, sole proprietorship, firm, enterprise, franchise, association,
7 organization, self-employed individual, holding company, joint stock company,
8 receivership, trust, or any legal entity through which business is conducted, whether
9 or not for profit;
- 10 (2) "Commission" means the Executive Branch Ethics Commission;
- 11 (3) "Compensation" means any money, thing of value, or economic benefit conferred
12 on, or received by, any person in return for services rendered, or to be rendered, by
13 himself or herself or another;
- 14 (4) "Family" means spouse and children, as well as a person who is related to a public
15 servant as any of the following, whether by blood or adoption: parent, brother,
16 sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-
17 in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter,
18 stepbrother, stepsister, half brother, half sister;
- 19 (5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or
20 anything of value, unless consideration of equal or greater value is received; "gift"
21 does not include gifts from family members, campaign contributions, the waiver of
22 a registration fee for a presenter at a conference or training described in KRS
23 45A.097(5), or door prizes available to the public;
- 24 (6) "Income" means any money or thing of value received or to be received as a claim
25 on future services, whether in the form of a fee, salary, expense allowance,
26 forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other
27 form of compensation or any combination thereof;

1 (7) "Officer" means:

2 (a) All major management personnel in the executive branch of state government,
 3 including the secretary of the cabinet, the Governor's chief executive officers,
 4 cabinet secretaries, deputy cabinet secretaries, general counsels,
 5 commissioners, deputy commissioners, executive directors, executive
 6 assistants, policy advisors, special assistants, administrative coordinators,
 7 executive advisors, staff assistants, and division directors;

8 (b) Members and full-time chief administrative officers of:

- 9 1. The Parole Board;
- 10 2. Office of Claims and Appeals;
- 11 3. Board of Tax Appeals;
- 12 4. Board of Claims;
- 13 5. Crime Victims Compensation Board;
- 14 6. Kentucky Retirement Systems board of trustees;
- 15 7. Kentucky Teachers' Retirement System board of trustees;
- 16 8. The Kentucky Public Employees Deferred Compensation Authority
- 17 board of trustees;
- 18 9. Public Service Commission;
- 19 10. Worker's Compensation Board and its administrative law judges;
- 20 11. The Kentucky Occupational Safety and Health Review Commission;
- 21 12. The Kentucky Board of Education;
- 22 13. The Council on Postsecondary Education;
- 23 14. County Employees Retirement System board of trustees;
- 24 15. Kentucky Public Pensions Authority;~~and~~
- 25 16. The Kentucky Horse Racing Commission; ***and***
- 26 ***17. The Kentucky Fish and Wildlife Resources Commission;***

27 (c) Salaried members of executive branch boards and commissions; and

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

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

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

4 ➔Section 2. KRS 11A.040 is amended to read as follows:

5 (1) A public servant, in order to further his or her own economic interests, or those of
6 any other person, shall not knowingly disclose or use confidential information
7 acquired in the course of his or her official duties.

8 (2) A public servant shall not knowingly receive, directly or indirectly, any interest or
9 profit arising from the use or loan of public funds in his or her hands or to be raised
10 through any state agency.

11 (3) A public servant shall not knowingly act as a representative or agent for the
12 Commonwealth or any agency in the transaction of any business or regulatory
13 action with himself or herself, or with any business in which he or she or a member
14 of his or her family has any interest greater than five percent (5%) of the total value
15 thereof.

16 (4) A public servant shall not knowingly himself or herself or through any business in
17 which he or she owns or controls an interest of more than five percent (5%), or by
18 any other person for his or her use or benefit or on his or her account, undertake,
19 execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract,
20 agreement, lease, sale, or purchase made, entered into, awarded, or granted by the
21 agency by which he or she is employed or which he or she supervises, subject to the
22 provisions of KRS 45A.340. This provision shall not apply to:

23 (a) A contract, purchase, or good faith negotiation made pursuant to KRS Chapter
24 416 relating to eminent domain; or

25 (b) Agreements which may directly or indirectly involve public funds disbursed
26 through entitlement programs; or

27 (c) A public servant's spouse or child doing business with any state agency other

1 than the agency by which the public servant is employed or which he
2 supervises; or

3 (d) Purchases from a state agency that are available on the same terms to the
4 general public or that are made at public auction; or

5 (e) Sales of craft items to a state park by interim state employees designated as
6 craftspersons under KRS 148.257.

7 (5) A public servant shall not knowingly accept compensation, other than that provided
8 by law for public servants, for performance of his or her official duties without the
9 prior approval of the commission.

10 (6) A former officer or public servant listed in KRS 11A.010(9)(a) to (g) shall not,
11 within one (1) year of termination of his or her employment, knowingly by himself
12 or herself or through any business in which he or she owns or controls an interest of
13 at least five percent (5%), or by any other person for his or her use or benefit or on
14 his or her account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or
15 in part, any contract, agreement, lease, sale, or purchase made, entered into,
16 awarded, or granted by the agency by which he or she was employed. This provision
17 shall not apply to a contract, purchase, or good-faith negotiation made under KRS
18 Chapter 416 relating to eminent domain or to agreements that may directly or
19 indirectly involve public funds disbursed through entitlement programs. This
20 provision shall not apply to purchases from a state agency that are available on the
21 same terms to the general public or that are made at public auction. This provision
22 shall not apply to former officers of the Department of Public Advocacy whose
23 continued representation of clients is necessary in order to prevent an adverse effect
24 on the client.

25 (7) A present or former officer or public servant listed in KRS 11A.010(9)(a) to (g)
26 shall not, within one (1) year following termination of his or her office or
27 employment, accept employment, compensation, or other economic benefit from

1 any person or business that contracts or does business with, or is regulated by, the
2 state in matters in which he or she was directly involved during the last thirty-six
3 (36) months of his or her tenure. This provision shall not prohibit an individual
4 from returning to the same business, firm, occupation, or profession in which he or
5 she was involved prior to taking office or beginning his or her term of employment,
6 or for which he or she received, prior to his or her state employment, a professional
7 degree or license, provided that, for a period of one (1) year, he or she personally
8 refrains from working on any matter in which he or she was directly involved
9 during the last thirty-six (36) months of his or her tenure in state government. This
10 subsection shall not prohibit the performance of ministerial functions, including but
11 not limited to filing tax returns, filing applications for permits or licenses, or filing
12 incorporation papers, nor shall it prohibit the former officer or public servant from
13 receiving public funds disbursed through entitlement programs.

14 (8) A former public servant shall not act as a lobbyist or lobbyist's principal in matters
15 in which he or she was directly involved during the last thirty-six (36) months of his
16 or her tenure for a period of one (1) year after the latter of:

17 (a) The date of leaving office or termination of employment; or

18 (b) The date the term of office expires to which the public servant was elected.

19 (9) A former public servant shall not represent a person or business before a state
20 agency in a matter in which the former public servant was directly involved during
21 the last thirty-six (36) months of his or her tenure, for a period of one (1) year after
22 the latter of:

23 (a) The date of leaving office or termination of employment; or

24 (b) The date the term of office expires to which the public servant was elected.

25 (10) Without the approval of his appointing authority, a public servant shall not accept
26 outside employment from any person or business that does business with or is
27 regulated by the state agency for which the public servant works or which he or she

1 supervises, unless the outside employer's relationship with the state agency is
2 limited to the receipt of entitlement funds.

3 (a) The appointing authority shall review administrative regulations established
4 under KRS Chapter 11A when deciding whether to approve outside
5 employment for a public servant.

6 (b) The appointing authority shall not approve outside employment for a public
7 servant if the public servant is involved in decision-making or
8 recommendations concerning the person or business from which the public
9 servant seeks outside employment or compensation.

10 (c) The appointing authority, if applicable, shall file quarterly with the Executive
11 Branch Ethics Commission a list of all employees who have been approved
12 for outside employment along with the name of the outside employer of each.

13 (11) The prohibitions imposed by subsection (5) or (10) of this section shall not apply to
14 Professional Golfers' Association class A members who teach golf lessons and
15 receive a fee or lesson charge at golf courses owned and operated by the Kentucky
16 Department of Parks. Instruction provided by an employee of the Commonwealth
17 shall only be given while the employee is on his or her own personal time. The
18 commissioner of the Department of Parks shall promulgate administrative
19 regulations to establish guidelines for the process by which Professional Golfers'
20 Association class A members are approved to teach golf lessons at Kentucky
21 Department of Parks-owned golf courses. The exception granted by this subsection
22 is in recognition of the benefits that will accrue to the Kentucky Department of
23 Parks due to increased participation at state-owned golf courses.

24 (12) The prohibitions imposed by subsections (6) to (10) of this section shall not apply to
25 members of the Kentucky Horse Racing Commission or the Kentucky Fish and
26 Wildlife Resources Commission.

27 ➔Section 3. KRS 150.022 is amended to read as follows:

- 1 (1) The Department of Fish and Wildlife Resources Commission shall consist of nine
2 (9) members, one (1) from each wildlife district, as set out by the commissioner
3 with the approval of the commission, and not more than five (5) of the same
4 political party.
- 5 (2) The Governor shall appoint the members of the commission subject to confirmation
6 by the Senate. Each of the members shall be appointed for a term of four (4) years
7 and may be reappointed only once. No person who has been convicted of a felony
8 offense, in Kentucky or under the law of any other state, or any other law of the
9 United States shall be eligible to serve on the commission.
- 10 (3) Vacancies through the expiration of terms of the members of the commission shall
11 be filled by appointment by the Governor from a list of five (5) names from each
12 wildlife district, recommended and submitted by the sportsmen of each respective
13 district. When the term of a member expires, the commissioner shall call a meeting
14 of the sportsmen in that district not later than thirty (30) days prior to the expiration
15 of the member's term. Notice of the meeting shall be given by publication pursuant
16 to KRS Chapter 424. At the meeting, the sportsmen in attendance shall select and
17 submit to the Governor a list of five (5) residents and citizens of the district who are
18 well informed on the subject of wildlife conservation and restoration. Each
19 sportsman may vote for one (1) candidate only, and the list submitted to the
20 Governor shall be made up of the names of the five (5) candidates receiving the five
21 (5) highest vote totals. The Governor shall appoint a successor to the member
22 whose term is about to expire within sixty (60) days following the submission to
23 him of the list referred to in this subsection, and in no event later than August 13.
- 24 (4) Upon appointment to the commission of the Department of Fish and Wildlife
25 Resources, each commissioner shall execute a bond of one thousand dollars
26 (\$1,000) in favor of the Department of Fish and Wildlife Resources, the premium
27 on this bond to be paid out of department funds.

- 1 (5) In the event of vacancies other than by expiration, the Governor shall fill the
2 vacancy for the unexpired part of the term from the names remaining on the list
3 previously submitted for the district from which the vacancy arose.
- 4 (6) Each member of the commission shall take the constitutional oath of office.
- 5 (7) The Governor shall remove any member of the commission for cause under
6 subsection (2) of this section and may remove any member of the commission for
7 inefficiency, neglect of duty, or misconduct in office; but shall first deliver to the
8 member a copy of all charges in writing and afford to him an opportunity of being
9 publicly heard in person or by counsel in defense of the charges, upon not less than
10 ten (10) days' notice. If a member shall be removed, the Governor shall file in the
11 office of the Secretary of State a complete statement of all charges made against the
12 member and his findings thereon, together with a complete record of the
13 proceedings.
- 14 (8) Each member of the commission shall be entitled to reimbursement for actual and
15 necessary traveling and other expenses incurred by him in the discharge of his
16 official duties and to be paid from the game and fish fund.
- 17 (9) A majority of the commission shall constitute a quorum for the transaction of any
18 business, for the performance of any duty or for the exercise of any power vested in
19 the commission.
- 20 (10) The department shall have its principal office in Franklin County, and is authorized
21 to purchase all supplies, equipment, and printed forms and to issue any notices and
22 publications as the commissioner may deem necessary to carry out the provisions of
23 this chapter.
- 24 (11) The word "sportsman" as used in this section shall mean a resident hunter or
25 fisherman who has been licensed in Kentucky for each of the past two (2)
26 consecutive years.
- 27 **(12) Members of the Kentucky Fish and Wildlife Resources Commission shall be**

1 *subject to the provisions of KRS 11A.010 and 11A.040.*