

1 AN ACT relating to lobbying.

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) As used in this section:*

6 *(a) "Lobbying" has the same meaning as in Section 7 of this Act, and includes*
7 *the types of lobbying activity described in subsection (10) of Section 10 of*
8 *this Act;*

9 *(b) "Lobbyist" has the same meaning as "legislative agent" as that term is*
10 *defined in Section 7 of this Act, and includes the type of lobbyists described*
11 *in subsection (9) of Section 10 of this Act;*

12 *(c) "Lobbyist employee" means those individuals as described in subsection*
13 *(23)(b)3. of Section 7 of this Act, and includes individuals described in*
14 *subsection (9)(b) of Section 10 of this Act;*

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

16 *(e) "Public funds" has the same meaning as in KRS 446.010(41) and KRS*
17 *65A.010(7), except that it shall not apply to the portion of those funds that*
18 *are derived from federal funds.*

19 *(2) A public agency, or any entity created by an act of the General Assembly, shall*
20 *not use public funds:*

21 *(a) For lobbying activity; or*

22 *(b) To employ or enter into a contract with a lobbyist.*

23 *(3) The General Assembly shall not appropriate public funds:*

24 *(a) For lobbying activity; or*

25 *(b) To employ or enter into a contract with a lobbyist.*

26 *(4) Subsections (2)(a) and (3)(a) of this section shall not apply to public agencies that*
27 *hire lobbyist employees who perform lobbying activities as part of their fiduciary*

1 duties.

2 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO
3 READ AS FOLLOWS:

4 (1) As used in this section:

5 (a) "Lobbying" has the same meaning as in Section 7 of this Act, and includes
6 the types of lobbying activity described in subsection (10) of Section 10 of
7 this Act;

8 (b) "Lobbyist" has the same meaning as "legislative agent" as that term is
9 defined in Section 7 of this Act, and includes the type of lobbyists described
10 in subsection (9) of Section 10 of this Act;

11 (c) "Lobbyist employee" means those individuals as described in subsection
12 (23)(b)3. of Section 7 of this Act, and includes individuals described in
13 subsection (9)(b) of Section 10 of this Act;

14 (d) "Public agency" has the same meaning as in KRS 61.870; and

15 (e) "Public funds" has the same meaning as in KRS 446.010(41) and KRS
16 65A.010(7), except that it shall not apply to the portion of those funds that
17 are derived from federal funds.

18 (2) A public agency shall not use public funds:

19 (a) For lobbying activity; or

20 (b) To employ or enter into a contract with a lobbyist.

21 (3) Subsection (2)(a) of this section shall not apply to public agencies that hire
22 lobbyist employees who perform lobbying activity as part of their fiduciary duties.

23 ➔SECTION 3. A NEW SECTION OF KRS 6.601 TO 6.849 IS CREATED TO
24 READ AS FOLLOWS:

25 (1) Any person who believes that Section 1, 2, or 4 of this Act has been violated may
26 file a complaint with the commission pursuant to KRS 6.686.

27 (2) The commission has jurisdiction to investigate and proceed upon receipt of any

1 complaint submitted pursuant to this section.

2 (3) If the alleged violator is an employee of the executive branch of state government,
 3 the commission shall transfer the complaint to the Executive Branch Ethics
 4 Commission within seven (7) days of receipt of the complaint, and the Executive
 5 Branch Ethics Commission shall conduct an investigation pursuant to KRS
 6 11A.080, or refer the matter to an applicable agency that has its own code of
 7 ethics under KRS 11A.015, as appropriate.

8 ➔SECTION 4. A NEW SECTION OF KRS 6.601 TO 6.849 IS CREATED TO
 9 READ AS FOLLOWS:

10 (1) As used in this section, "public agency" has the same meaning as in KRS 61.870.

11 (2) A public agency shall file a report with the commission if it:

12 (a) Procures a contract with a legislative agent to engage in federal lobbying;

13 or

14 (b) Uses federal funds:

15 1. To employ or procure a contract with a legislative agent; or

16 2. As part of any compensation or salary paid to an employee to engage
 17 in lobbying activity on behalf of the public agency.

18 (3) The report shall include:

19 (a) The name, business address and telephone number, and occupation of the
 20 legislative agent;

21 (b) The amount of federal funds used to employ or procure a contract with a
 22 legislative agent;

23 (c) The amount of federal funds used as compensation or salary for an
 24 employee used to engage in lobbying activity for the agency;

25 (d) The name, bill number, or a brief description of the federal action for which
 26 the legislative agent or employee is or will be engaged in lobbying on behalf
 27 of the agency;

1 (e) The date or dates on which the legislative agent or employee is engaged;

2 and

3 (f) Certification by the public agency that the information contained in the

4 report is complete and accurate;

5 (4) If a public agency uses:

6 (a) Both its employees and legislative agents to engage in federal lobbying; or

7 (b) Federal funds to provide compensation for an employee to engage in

8 lobbying activity and to procure a contract with or employ a legislative

9 agent;

10 it shall include information pertaining to both the employee and the legislative

11 agent pursuant to subsection (3) of this section.

12 (5) (a) The report shall be filed with the commission within thirty (30) days of the

13 decision by the public agency to engage in federal lobbying or to use federal

14 funds for lobbying activity pursuant to this section.

15 (b) In addition to the requirements of paragraph (a) of this subsection, a public

16 agency shall submit a report containing the same information to the

17 commission annually by June 30.

18 (6) All public agencies shall provide an annual list of all contracts they have

19 procured with a legislative agent for all types of lobbying activity, regardless of

20 the source of funds, to the Auditor of Public Accounts and State Treasurer by

21 June 30 of each year.

22 ➔SECTION 5. A NEW SECTION OF KRS 6.601 TO 6.849 IS CREATED TO

23 READ AS FOLLOWS:

24 (1) The Attorney General and any assistant or special counsel designated by him or

25 her, any county attorney, or any Commonwealth's attorney may investigate

26 compliance with KRS 6.601 to 6.849, and, if necessary, initiate appropriate court

27 action to obtain compliance, including through injunctive relief.

1 (2) Any penalty issued by a court under subsection (1) of this section shall be in
 2 addition to any penalty prescribed in Section 8 of this Act.

3 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO
 4 READ AS FOLLOWS:

5 (1) As used in this section:

6 (a) "Institution" means a public postsecondary education institution and
 7 includes all programs, departments, divisions, offices, centers, colleges, and
 8 affiliated organizations and corporations;

9 (b) "Lobbyist" has the same meaning as "legislative agent" as that term is
 10 defined in Section 7 of this Act, and includes the type of lobbyists described
 11 in subsection (9) of Section 10 of this Act; and

12 (c) "Public funds" has the same meaning as in KRS 446.010(41) and KRS
 13 65A.010(7), except that it shall not apply to the portion of those funds that
 14 are derived from federal funds.

15 (2) A public postsecondary education institution shall not employ or contract with a
 16 lobbyist or use public funds to employ or contract with a lobbyist.

17 (3) A president of a public postsecondary education institution may lobby on behalf
 18 of the institution in his or her fiduciary capacity.

19 ➔Section 7. KRS 6.611 is amended to read as follows:

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

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

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

- 25 1. A pecuniary item, including money, or a bank bill or note;
- 26 2. A promissory note, bill of exchange, order, draft, warrant, check, or
 27 bond given for the payment of money;

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

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

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

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

1 (10) (a) "Compensation" means:

- 2 1. An advance, salary, conveyance, forgiveness of indebtedness, deposit,
3 distribution, loan, payment, gift, pledge, or transfer of money; or
- 4 2. A contract, agreement, promise, or other obligation for an advance,
5 conveyance, forgiveness of indebtedness, deposit, distribution, loan,
6 payment, gift, pledge, or transfer of money for services rendered or to be
7 rendered.

8 (b) "Compensation" does not include reimbursement of expenses if:

- 9 1. The reimbursement is equal to, or less than, the amount paid for the
10 expenses;
- 11 2. Expense records are itemized; and
- 12 3. No portion of the reimbursed expense is used to give anything of value
13 to a legislator, candidate, or the spouse of a legislator or candidate;

14 (11) "Economic interest" means an interest distinct from that of the general public in a
15 state purchase, sale, lease, contract, option, or other transaction or arrangement
16 involving property or services in which a legislator may gain an economic benefit
17 of fifty dollars (\$50) or more;

18 (12) "Employer" means any person who engages a legislative agent and in the case of a
19 business other than a sole proprietorship or self-employed individual, it means the
20 business entity, and not an individual officer, director, or employee thereof, except
21 when an officer, director, or employee makes an expenditure for which he or she is
22 reimbursed by the business entity;

23 (13) "Engage" means to make any arrangement, and "engagement" means any
24 arrangement, by which an individual is employed or retained for compensation to
25 act for or on behalf of an employer to lobby;

26 (14) "Ethical misconduct" means any violation of the Kentucky Code of Legislative
27 Ethics;

- 1 (15) (a) "Expenditure" means any of the following that is made to, at the request of,
2 for the benefit of, or on behalf of any member of the General Assembly, the
3 Governor, the secretary of a cabinet listed in KRS 12.250, or any member of
4 the staff of any of those officials:
- 5 1. A payment, distribution, loan, advance, deposit, reimbursement, or gift
6 of money, real estate, or anything of value, including~~[,]~~ but not limited
7 to~~[,]~~ food and beverages, entertainment, lodging, transportation, or
8 honoraria;
 - 9 2. A contract, promise, or agreement, to make an expenditure; or
 - 10 3. The purchase, sale, or gift of services or any other thing of value.
- 11 (b) "Expenditure" does not include a contribution, gift, or grant to a foundation or
12 other charitable organization that is exempt from federal income taxation
13 under Section 501(c)(3) of the Internal Revenue Code. "Expenditure" does not
14 include the purchase, sale, or gift of services or any other thing of value that is
15 available to the general public on the same terms as it is available to the
16 persons listed in this subsection;
- 17 (16) "Family member" means a person:
- 18 (a) Who is the spouse, parent, sibling, child, mother-in-law, father-in-law, son-in-
19 law, daughter-in-law, grandparent, or grandchild of an individual; or
 - 20 (b) Who is a member of the individual's household, and is dependent upon the
21 individual;
- 22 (17) "Filer" means an individual who is required to file a statement of financial interests
23 pursuant to KRS 6.781;
- 24 (18) (a) "Financial transaction" means a transaction or activity that is conducted or
25 undertaken for profit and arises from the joint ownership, ownership, or part
26 ownership in common of any real or personal property or any commercial or
27 business enterprise of whatever form or nature between the following:

- 1 1. A legislative agent, his or her employer, or a member of the immediate
2 family of the legislative agent or his or her employer; and
- 3 2. Any member of the General Assembly, the Governor, the secretary of a
4 cabinet listed in KRS 12.250, or any member of the staff of any of the
5 officials listed in this subparagraph.
- 6 (b) "Financial transaction" does not include any transaction or activity:
- 7 1. Described in paragraph (a) of this subsection if it is available to the
8 general public on the same or similar terms and conditions; or
- 9 2. Made or let after public notice and competitive bidding or contracts that
10 are available on similar terms to other members of the general public.
- 11 (19) "Former legislator" means a person who previously held a position as a legislator
12 and who no longer holds that position;
- 13 (20) "Immediate family" means an unemancipated child residing in an individual's
14 household, a spouse of an individual, or a person claimed by the individual as a
15 dependent for tax purposes;
- 16 (21) "In-state" means within the borders of Kentucky or outside Kentucky in a county
17 that is contiguous with the border of Kentucky;
- 18 (22) "Legislation" means bills, resolutions, amendments, nominations, administrative
19 regulations, and any other matter pending before the General Assembly or any of its
20 interim or statutory committees, or the executive approval or veto of any bill acted
21 upon by the General Assembly;
- 22 (23) (a) "Legislative agent" means any individual who is engaged:
- 23 1. During at least a portion of his or her time to lobby as one (1) of his or
24 her official responsibilities;~~or~~
- 25 2. In lobbying activities as a legislative liaison of an association, coalition,
26 or public interest entity formed for the purpose of promoting or
27 otherwise influencing legislation; **or**

1 **3. In indirect lobbying as a public relations, media, or social media**
 2 **company as described in subsection (27)(a)2. of this section.**

- 3 (b) "Legislative agent" does not include:
- 4 1. Any person who limits his or her lobbying activities to appearing before
- 5 public meetings of legislative committees, subcommittees, or task
- 6 forces, or public hearings or meetings of public agencies;
- 7 2. A private citizen who receives no compensation for lobbying and who
- 8 expresses a personal opinion; or
- 9 3. **An elected or appointed officer or employee of a federal or state**
 10 **agency or political subdivision who attempts to influence or affect**
 11 **legislation in his or her fiduciary capacity as a representative of his or**
 12 **her agency or political subdivision**~~[A public servant acting in his or her~~
 13 ~~fiduciary capacity as a representative of his or her agency, college,~~
 14 ~~university, or city, county, urban county, consolidated local government,~~
 15 ~~unified local government, or charter county government, except persons~~
 16 ~~engaged by a de jure municipal corporation, such as the Kentucky~~
 17 ~~Lottery Corporation or the Kentucky Housing Corporation, institutions~~
 18 ~~of higher education, or local governments, whose primary responsibility~~
 19 ~~during sessions of the General Assembly is to lobby];~~

20 (24) "Legislative interest" means a substantial economic interest, distinct from that of

21 the general public, in one (1) or more legislative matters;

22 (25) "Legislative matter" means any bill, resolution, nomination, or other issue or

23 proposal pending before the General Assembly or any interim committee,

24 committee, subcommittee, task force, or commission of the General Assembly;

25 (26) "Legislator" means a member or member-elect of the General Assembly;

26 (27) (a) "Lobby" means:

27 **L.** To promote, advocate, or oppose the passage, modification, defeat, or

1 executive approval or veto of any legislation by direct communication with
2 any member of the General Assembly, the Governor, the secretary of any
3 cabinet listed in KRS 12.250, or any member of the staff of any of the
4 officials listed in this paragraph; or

5 2. As applied to a public agency as defined in KRS 61.870, to hire, employ, or
6 procure through in a contract with, a public relations, media, or social
7 media company to indirectly promote, advocate, or oppose the passage,
8 modification, defeat, or executive approval or veto of any legislation with
9 any member of the General Assembly, the Governor, the secretary of any
10 cabinet listed in KRS 12.250, or any member of the staff of any of the
11 officials listed in this paragraph.

12 (b) "Lobbying" does not include:

- 13 1. Appearances before public meetings of the committees, subcommittees,
14 task forces, and interim committees of the General Assembly;
- 15 2. News, editorial, and advertising statements published in newspapers,
16 journals, or magazines, or broadcast over radio or television;
- 17 3. The gathering and furnishing of information and news by bona fide
18 reporters, correspondents, or news bureaus to news media described in
19 paragraph (b)2. of this subsection;
- 20 4. Publications primarily designed for, and distributed to, members of bona
21 fide associations or charitable or fraternal nonprofit corporations;
- 22 5. Professional services in drafting bills or resolutions, preparing
23 arguments on these bills or resolutions, or in advising clients and
24 rendering opinions as to the construction and the effect of proposed or
25 pending legislation, if the services are not otherwise connected with
26 lobbying; or
- 27 6. The action of any person not engaged by an employer who has a direct

1 interest in legislation, if the person, acting under Section 1 of the
2 Kentucky Constitution, assembles together with other persons for their
3 common good, petitions any official listed in this subsection for the
4 redress of grievances, or other proper purposes;

5 (28) "Person" means an individual, proprietorship, firm, partnership, joint venture, joint
6 stock company, syndicate, business, trust, estate, company, corporation, association,
7 club, committee, organization, or group of persons acting in concert;

8 (29) "Public servant" means an elected or appointed officer or employee of a federal or
9 state agency; state institution of higher education; or a city, county, urban-county,
10 or charter county government;

11 (30) "State agency" means any department, office, commission, board, or authority
12 within the executive department, and includes state-supported universities and
13 colleges but does not include local boards of education; and

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

18 ➔Section 8. KRS 6.691 is amended to read as follows:

19 (1) The Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence shall
20 apply to all commission adjudicatory hearings. All testimony in a commission
21 adjudicatory proceeding shall be under oath. All parties shall have the right to call
22 and examine witnesses, to introduce exhibits, to cross-examine witnesses, to submit
23 evidence, and to be represented by counsel and any other due process rights,
24 privileges, and responsibilities of a witness appearing before the courts of the
25 Commonwealth of Kentucky. Before testifying, all witnesses shall be given a copy
26 of the regulations governing commission proceedings. All witnesses shall be
27 entitled to be represented by counsel.

- 1 (2) Any person whose name is mentioned during adjudicatory proceedings of the
2 commission and who may be adversely affected thereby may appear personally
3 before the commission on the person's own behalf, with or without attorney, to give
4 a statement in opposition to such adverse mention or file a written statement of that
5 opposition for incorporation into the record of proceeding.
- 6 (3) All adjudicatory proceedings of the commission carried out pursuant to the
7 provisions of this section shall be public, unless the members vote to go into
8 executive session in accordance with KRS 61.810.
- 9 (4) Within thirty (30) days after the end of an adjudicatory proceeding pursuant to the
10 provisions of this section, the commission shall meet in executive session for the
11 purpose of reviewing the evidence before it. Within thirty (30) days after
12 completion of deliberations, the commission shall publish a written report of its
13 findings and conclusions which shall be based on whether the person accused has
14 complied with the statute as written.
- 15 (5) No penalty provided for in this section shall be imposed except as the result of an
16 adjudicatory proceeding held upon the filing of a complaint. Notwithstanding the
17 administrative penalties provided for in KRS 6.797, 6.807, and 6.821, the
18 commission, upon a finding pursuant to an adjudicatory proceeding that there has
19 been clear and convincing proof of a violation of this code, may:
- 20 (a) Issue an order requiring the violator to cease and desist the violation;
- 21 (b) Issue an order requiring the violator to file any report, statement, or other
22 information as required by this code;
- 23 (c) In writing, publicly reprimand the violator for potential violations of the law
24 and provide a copy of the reprimand to the presiding officer of the house in
25 which the alleged violator serves;
- 26 (d) In writing, recommend to the house in which the violator serves that the
27 violator be sanctioned as recommended by the commission, which may

- 1 include a recommendation for censure or expulsion;
- 2 (e) Issue an order requiring the violator to pay a civil penalty of not more than
- 3 two thousand dollars (\$2,000); or
- 4 (f) Revoke the registration of any legislative agent or employer for a period not
- 5 to exceed five (5) years. During the period of the revocation, the agent or
- 6 employer or any other entity which constitutes nothing more than the
- 7 legislative agent or employer operating under a different name or identity
- 8 shall not be permitted to register as a legislative agent or employer.

9 (6) **(a) The commission has the authority to impose sanctions under this section on**

10 **a public agency or a lobbyist who are found to have violated Section 1 or 2**

11 **of this Act.**

12 **(b) Notwithstanding subsection (5)(e) of this section, the commission may, in**

13 **addition to the penalties prescribed in subsection (5) of this section, issue an**

14 **order requiring a public agency or lobbyist to pay a civil penalty of not less**

15 **than two thousand dollars (\$2,000) but not more than ten thousand dollars**

16 **(\$10,000), for each violation of Section 1 or 2 of this Act.**

17 **(7)** The commission may refer to the Attorney General, county attorney, or

18 Commonwealth's attorney of the appropriate jurisdiction, for prosecution evidence

19 of criminal violations of this code. The Attorney General shall have responsibility

20 for all prosecutions under the law and may request from the commission all

21 evidence collected in its investigation.

22 **(8)**~~(7)~~ Findings of fact or final determinations by the commission that a violation of

23 this code has been committed, or any testimony related to the commission's findings

24 of fact or final determinations, shall not be admissible in criminal proceedings in

25 the courts of the Commonwealth of Kentucky. Evidence collected by the

26 commission may be used in a criminal proceeding if otherwise relevant.

27 **(9)**~~(8)~~ Any person found by the commission to have committed a violation of this

1 code may appeal the action to the Franklin Circuit Court. The appeal shall be
2 initiated within thirty (30) days after the date of the final action of the commission
3 by filing a petition with the court against the commission. The commission shall
4 transmit to the clerk of the court all evidence considered by the commission at the
5 public hearing. The court shall hear the appeal upon the record as certified by the
6 commission.

7 ➔Section 9. KRS 6.945 is amended to read as follows:

- 8 (1) The General Assembly shall not impose requirements on cities of any class that
9 require city expenditures or tax levies unless:
- 10 (a) The requirements are fully funded by the General Assembly; or
11 (b) The requirements are contingent on the approval of the city legislative body.
- 12 (2) Subsection (1) of this section shall not apply if the requirements are the result of a
13 federal mandate, but in no case shall the requirements described in this section
14 extend beyond the requirements of the federal mandate.
- 15 (3) Nothing in this section shall affect the obligations under KRS 6.955 to 6.975,
16 78.510 to 78.852, or any other retirement system or plan established by Kentucky
17 law.
- 18 **(4) Nothing in this section shall affect the requirements of Section 1 or 2 of this Act.**

19 ➔Section 10. KRS 11A.201 is amended to read as follows:

20 As used in KRS 11A.201 to 11A.246 and KRS 11A.990:

- 21 (1) "Compensation" means any money, thing of value, or economic benefit conferred
22 on, or received by, any person in return for services rendered, or to be rendered, by
23 himself or another;
- 24 (2) (a) "Expenditure" means any of the following that is made to, or for the benefit of
25 an elected executive official, the secretary of a cabinet listed in KRS 12.250,
26 an executive agency official, or a member of the staff of any of the officials
27 listed in this paragraph:

- 1 1. A payment, distribution, loan, advance, deposit, reimbursement, or gift
2 of money, real estate, or anything of value, including~~[,]~~ but not limited
3 to~~[,]~~ food and beverages, entertainment, lodging, transportation, or
4 honoraria;
- 5 2. A contract, promise, or agreement to make an expenditure; or
- 6 3. The purchase, sale, or gift of services or any other thing of value.
- 7 (b) "Expenditure" does not include a contribution, gift, or grant to a foundation or
8 other charitable organization that is exempt from federal income taxation
9 under Section 501(c)(3) of the Internal Revenue Code. "Expenditure" does not
10 include the purchase, sale, or gift of services or any other thing of value that is
11 available to the general public on the same terms as it is available to the
12 persons listed in this subsection. "Expenditure" does not include a payment,
13 contribution, gift, purchase, or any other thing of value that is made to or on
14 behalf of any elected executive official, the secretary of a cabinet listed in
15 KRS 12.250, an executive agency official, or any member of the staff of any
16 of the officials listed in this paragraph who works for a state agency for which
17 the executive agency lobbyist is not registered to influence;
- 18 (3) "Employer" means any person who engages an executive agency lobbyist;
- 19 (4) "Engage" means to make any arrangement, and "engagement" means arrangement,
20 whereby an individual is employed or retained for compensation to act for or on
21 behalf of an employer to influence executive agency decisions or to conduct any
22 executive agency lobbying activity;
- 23 (5) "Financial impact" means to have an effect on the financial position of the
24 employer of the executive agency lobbyist or the real party in interest whether or
25 not the impact is positive or negative;
- 26 (6) (a) "Financial transaction" means a transaction or activity that is conducted or
27 undertaken for profit and arises from the joint ownership, or the ownership, or

1 part ownership in common of any real or personal property or any commercial
2 or business enterprise of whatever form or nature between the following:

- 3 1. An executive agency lobbyist, his or her employer, a real party in
4 interest, or a member of the immediate family of the executive agency
5 lobbyist, his or her employer, or a real party in interest; and
- 6 2. Any elected executive official, the secretary of a cabinet listed in KRS
7 12.250, an executive agency official, or any member of the staff of any
8 of the officials listed in this subparagraph.

9 (b) "Financial transaction" does not include any transaction or activity described
10 in paragraph (a) of this subsection if it is available to the general public on the
11 same terms;

12 (7) "Executive agency" means the office of an elected executive official, a cabinet
13 listed in KRS 12.250, or any other state agency, department, board, or commission
14 controlled or directed by an elected executive official or otherwise subject to his or
15 her authority. "Executive agency" does not include any court or the General
16 Assembly;

17 (8) "Executive agency decision" means a decision of an executive agency regarding the
18 expenditure of funds of the state or of an executive agency with respect to the
19 award of a contract, grant, lease, or other financial arrangement under which those
20 funds are distributed or allocated. This shall also include decisions made
21 concerning:

- 22 (a) The parameters of requests for information, and requests for proposals, and
23 other forms of solicitation in KRS Chapter 45A or 176;
- 24 (b) Drafting, adopting, or implementing a budget provision;
- 25 (c) Administrative regulations or rules;
- 26 (d) An executive order; or
- 27 (e) Legislation or amendments thereto;

- 1 (9) (a) "Executive agency lobbyist" means any person engaged to influence
2 executive agency decisions or to conduct executive agency lobbying activity
3 as one (1) of his or her main purposes regarding a substantial issue, including
4 associations, coalitions, or public interest entities formed for the purpose of
5 promoting or otherwise influencing executive agency decisions. The term
6 "executive agency lobbyist" shall also include placement agents and
7 unregulated placement agents.
- 8 (b) "Executive agency lobbyist" does not include an elected or appointed officer
9 or employee of a federal or state agency~~[, state college, state university,]~~ or
10 political subdivision who attempts to influence or affect executive agency
11 decisions in his or her fiduciary capacity as a representative of his or her
12 agency~~[, college, university,]~~ or political subdivision;
- 13 (10) (a) "Executive agency lobbying activity" means contacts made to promote,
14 advocate, or oppose the passage, modification, defeat, or executive approval
15 or veto of any legislation or otherwise influence the outcome of an executive
16 agency decision by direct communication with an elected executive official,
17 the secretary of any cabinet listed in KRS 12.250, any executive agency
18 official whether in the classified service or not, or a member of the staff of
19 any one (1) of the officials listed in this paragraph.
- 20 (b) "Executive agency lobbying activity" does not include any of the following:
- 21 1. The action of any person having a direct interest in executive agency
22 decisions, if the person acting under Section 1 of the Kentucky
23 Constitution, assembles together with other persons for their common
24 good, petitions any person listed in paragraph (a) of this subsection for
25 the redress of grievances or other proper purposes;
 - 26 2. Contacts made for the sole purpose of gathering information contained
27 in a public record;

- 1 3. Appearances before public meetings of executive agencies;
- 2 4. News, editorial, and advertising statements published in newspapers,
- 3 journals, or magazines, or broadcast over radio or television;
- 4 5. The gathering and furnishing of information and news by bona fide
- 5 reporters, correspondents, or news bureaus to news media described in
- 6 subparagraph 4. of this paragraph;
- 7 6. Publications primarily designed for, and distributed to, members of bona
- 8 fide associations or charitable or fraternal nonprofit corporations;
- 9 7. Professional services in preparing executive agency decisions, preparing
- 10 arguments regarding executive agency decisions, or in advising clients
- 11 and rendering opinions regarding proposed or pending executive agency
- 12 decisions, if the services are not otherwise connected to lobbying; or
- 13 8. Public comments submitted to an executive agency during the public
- 14 comment period on administrative regulations or rules;
- 15 (11) "Executive agency official" means an officer or employee of an executive agency
- 16 whose principal duties are to formulate policy or to participate directly or indirectly
- 17 in the preparation, review, or award of contracts, grants, leases, or other financial
- 18 arrangements with an executive agency;
- 19 (12) "Aggrieved party" means a party entitled to resort to a remedy;
- 20 (13) "Elected executive official" means the Governor, Lieutenant Governor, Secretary of
- 21 State, Auditor of Public Accounts, State Treasurer, Attorney General, and
- 22 Commissioner of Agriculture;
- 23 (14) "Person" means an individual, proprietorship, firm, partnership, limited partnership,
- 24 joint venture, joint stock company, syndicate, business or statutory trust, donative
- 25 trust, estate, company, corporation, limited liability company, association, club,
- 26 committee, organization, or group of persons acting in concert;
- 27 (15) "Staff" means any employee of the office of the Governor, or a cabinet listed in

1 KRS 12.250, whose official duties are to formulate policy and who exercises
2 administrative or supervisory authority, or who authorizes the expenditure of state
3 funds;

4 (16) "Real party in interest" means the person or entity on whose behalf an executive
5 agency lobbyist is acting, if that person or entity is not the employer of the
6 executive agency lobbyist;

7 (17) "Substantial issue" means contacts which are intended to influence a decision that
8 involves one or more disbursements of state funds in an amount of at least five
9 thousand dollars (\$5,000) per year, or any budget provision, administrative
10 regulation or rule, or legislative matter that financially impacts the executive agency
11 lobbyist or his or her employer;

12 (18) "Placement agent" means an individual or firm who is compensated or hired by an
13 employer or other real party in interest for the purpose of influencing an executive
14 agency decision regarding the investment of the Kentucky Retirement Systems, the
15 County Employees Retirement System, or the Kentucky Teachers' Retirement
16 System assets; and

17 (19) "Unregulated placement agent" means a placement agent who is prohibited by
18 federal securities laws and regulations promulgated thereunder from receiving
19 compensation for soliciting a government agency.

20 ➔Section 11. KRS 61.990 is amended to read as follows:

21 (1) Any person who exercises any of the functions of a nonelective peace officer or
22 deputy peace officer in violation of the provisions of KRS 61.300 shall be fined not
23 less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), or
24 imprisoned in the county jail for not more than six (6) months, or both.

25 (2) Any person who violates any of the provisions of KRS 61.360 shall be fined not
26 less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500) or be
27 imprisoned not less than ten (10) days nor more than sixty (60) days, or both.

1 (3) (a) Any person who willfully violates the provisions of KRS 61.102(1) shall be
2 guilty of a Class A misdemeanor.

3 ~~(b)(4)~~ A court, in rendering a judgment in an action filed under KRS 61.102
4 and 61.103, shall order, as it considers appropriate, reinstatement of the
5 employee, the payment of back wages, full reinstatement of fringe benefits
6 and seniority rights, exemplary or punitive damages, or any combination
7 thereof. A court may also award the complainant all or a portion of the costs
8 of litigation, including reasonable attorney fees and witness fees.

9 (4) Any officer or employee of a public agency who intentionally violates the
10 provisions of Section 1 or 2 of this Act shall be guilty of a Class A misdemeanor
11 for the first offense and a Class D felony for each subsequent offense.

12 ➔Section 12. This Act may be cited as the Bye Bye BULL Act.