

1 AN ACT relating to ethics.

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

3 ➔Section 1. KRS 6.080 is amended to read as follows:

4 Any person who, after being lawfully summoned by the General Assembly, either house  
5 or a committee of either, refuses to attend as a witness, or bring any paper proper to be  
6 used as evidence or who, being present, refuses to testify concerning any matter which  
7 may be a proper subject of inquiry, and any person who offers or gives a bribe to a  
8 member of the General Assembly, or attempts, by other corrupt means, to influence a  
9 member to cast or withhold his vote, shall, on conviction as provided by KRS 6.090 to  
10 6.131, be fined not more than fifteen~~one~~ thousand dollars (\$15,000)~~(\$1,000)~~ or  
11 imprisoned in the ~~Franklin~~ county jail any time during the then current session of the  
12 General Assembly, or both. **The Attorney General, upon request of any committee of**  
13 **the General Assembly or a co-chair of the Commission, shall enforce this section in the**  
14 **county of residence of the accused person or in Franklin County under KRS 15.210.**

15 ➔Section 2. KRS 11A.060 is amended to read as follows:

16 (1) The Executive Branch Ethics Commission is hereby established.

17 (2) The commission shall be composed of seven (7)~~five (5)~~ members, **two (2) of**  
18 **whom shall be** appointed by the Governor. **Each of the following shall appoint**  
19 **one (1) member of the commission:**

20 **(a) Treasurer;**

21 **(b) Auditor of Public Accounts;**

22 **(c) Commissioner of Agriculture;**

23 **(d) Secretary of State; and**

24 **(e) Attorney General.**

25 (3) **On the effective date of this Act, the terms of the existing members of the**  
26 **commission shall terminate and seven (7) new initial members shall be appointed**  
27 **by the officials listed under subsection (2) of this section.** Members of the

1 commission shall serve staggered terms of four (4) years. Of the initial members  
 2 appointed as provided in this section, one (1) member shall serve a term of one (1)  
 3 year **and shall be appointed by the Treasurer**, one (1) member shall serve a term of  
 4 two (2) years **and shall be appointed by the Auditor of Public Accounts, two (2)**  
 5 **members**~~[one (1) member]~~ shall serve a term of three (3) years, **one (1) of whom**  
 6 **shall be appointed by the Governor and one (1) of whom shall be appointed by the**  
 7 **Commissioner of Agriculture**, and **three (3)**~~[two (2)]~~ members shall be appointed  
 8 for terms of four (4) years, **one (1) of whom shall be appointed by the Governor,**  
 9 **one (1) of whom shall be appointed by the Secretary of State, and one (1) of**  
 10 **whom shall be appointed by the Attorney General**. Thereafter, all appointments  
 11 shall be for **staggered terms of** four (4) years.

12 (4) The commission shall **every two (2) years** elect from its membership a  
 13 **chair**~~[chairman]~~ and vice **chair**~~[chairman]~~. In the absence of the **chair**~~[chairman]~~ or  
 14 in the event of a vacancy in that position, the vice **chair**~~[chairman]~~ shall serve as  
 15 **chair**~~[chairman]~~.

16 (5) A member of the commission shall receive one hundred dollars (\$100) per day for  
 17 attending meetings and shall be reimbursed for actual and necessary expenses  
 18 incurred in the performance of duties.

19 (6) All members shall be registered voters of the state.

20 (7) Members of the commission shall be removed by the **appointing authority who**  
 21 **appointed him or her**~~[Governor]~~ for cause only, including substantial neglect of  
 22 duty and inability to discharge the powers and duties of office.

23 (8) A quorum shall consist of **four (4)**~~[three (3)]~~ or more members. An affirmative vote  
 24 of **four (4)**~~[three (3)]~~ or more members shall be necessary for commission action.

25 (9) The commission shall meet at the call of the **chair**~~[chairman]~~ or a majority of its  
 26 members.

27 (10) The commission shall be attached to the Finance and Administration Cabinet for

1 administrative purposes only.

2 **(11) The commission shall not be reorganized except by statute.**

3 ➔Section 3. KRS 11A.080 is amended to read as follows:

4 (1) (a) Upon a complaint signed under penalty of perjury by any person, or upon its  
5 own motion, the commission shall conduct a preliminary investigation of any  
6 alleged violation of this chapter.

7 (b) The preliminary investigation shall begin not later than ten (10) days after the  
8 next commission meeting following the receipt of the sworn complaint, or, if  
9 the investigation is initiated by the commission's own motion, not later than  
10 ten (10) days after the date of the adoption of the motion.

11 (c) Within ten (10) days of the commencement of the preliminary investigation,  
12 the commission shall forward a copy of the complaint, if one has been filed, or  
13 a statement of possible violations being investigated, and a general statement  
14 of the applicable law to the person alleged to have committed a violation.

15 **(d) For each complaint filed by a person other than the commission or a**  
16 **member of the commission, the commission shall make a finding as to**  
17 **whether the complaint is:**

18 **1. Well-grounded in fact;**

19 **2. Warranted by existing law; and**

20 **3. Filed for a good faith argument or reason and not for any improper**  
21 **purpose, such as for political advantage, to harass or embarrass a**  
22 **person or persons, to cause delays, or to increase the costs of**  
23 **adjudicating a case before the commission.**

24 (2) All commission proceedings and records relating to a preliminary investigation  
25 shall be confidential until a final determination is made by the commission, except:

26 (a) The commission may turn over to the Attorney General, the United States  
27 Attorney, or the Commonwealth's attorney of the jurisdiction in which the

1 offense allegedly occurred, evidence which may be used in criminal  
2 proceedings or, at its discretion, may at any time turn over to the Personnel  
3 Board, the Auditor of Public Accounts, or any other agency with jurisdiction  
4 to review, audit, or investigate the alleged offense, evidence which may be  
5 used by those agencies for investigative purposes;

6 (b) If the alleged violator publicly discloses the existence of a preliminary  
7 investigation, the commission may publicly confirm the existence of the  
8 inquiry and, in its discretion, make public any documents which were issued  
9 to either party;

10 (c) If the matter being investigated was referred to the commission from another  
11 state agency, the commission may inform the referring state agency of the  
12 status of any preliminary investigation and of any action taken on the matter.

13 (3) If the commission determines in the preliminary investigation that the facts are not  
14 sufficient to constitute a violation of this chapter, the commission shall immediately  
15 terminate the investigation and notify in writing the complainant, if any, and the  
16 person alleged to have committed a violation. The commission may confidentially  
17 inform the alleged violator of potential violations and provide information to ensure  
18 future compliance with the law. If the alleged violator publicly discloses the  
19 existence of such action by the commission, the commission may confirm the  
20 existence of the resolution and, in its discretion, make public any documents which  
21 were issued to the alleged violator.

22 (4) If the commission, during the course of the preliminary investigation, finds probable  
23 cause to believe that a violation of this chapter has occurred, the commission may,  
24 upon majority vote:

25 (a) Due to mitigating circumstances such as lack of significant economic  
26 advantage or gain by the alleged violator, lack of significant economic loss to  
27 the state, or lack of significant impact on public confidence in government, in

1 writing, confidentially reprimand the alleged violator for potential violations  
2 of the law and provide a copy of the reprimand to the alleged violator's  
3 appointing authority, if any. If the alleged violator publicly discloses the  
4 existence of such an action, the commission may confirm the existence of the  
5 action and, in its discretion, make public any documents which were issued to  
6 the alleged violator; or

7 (b) Initiate an administrative proceeding to determine whether there has been a  
8 violation.

9 (5) If the commission determines that a violation of this chapter has occurred in a case  
10 involving a contract with state government, the secretary of the Finance and  
11 Administration Cabinet may void any contract related to that case.

12 (6) If the commission determines that a violation of the provisions of KRS 11A.001 to  
13 11A.130 has occurred, an employer of a former officer or public servant may be  
14 subject to a fine of up to one thousand dollars (\$1,000) for each offense.