

1 AN ACT relating to legislative ethics.

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

3 ➔Section 1. KRS 6.661 is amended to read as follows:

- 4 (1) The commission may employ an executive director who shall serve at the pleasure
5 of the commission.
- 6 (2) The executive director shall:
- 7 (a) Administer the daily business of the commission and perform the duties
8 assigned by the commission; and
- 9 (b) Employ and remove other personnel as necessary to carry out the provisions
10 of this code.
- 11 (3) The commission shall fix the compensation of its staff, and the compensation shall
12 be commensurate with that paid to executive branch officials with a similar level of
13 responsibilities.
- 14 (4) The staff of the commission shall be exempt from the provisions of KRS 18A.005
15 to 18A.202.
- 16 (5) A member of the staff of the commission during his ***or her*** term of employment
17 shall be subject to the provisions of KRS 6.651~~(7)~~~~(8)~~.

18 ➔Section 2. KRS 6.686 is amended to read as follows:

- 19 (1) (a) The commission shall have jurisdiction to investigate and proceed as to any
20 violation of this code upon the filing of a complaint ***or the written approval of***
21 ***the chair and vice chair of the commission***. The complaint shall be a written
22 statement alleging a violation against one (1) or more named persons and
23 stating the essential facts constituting the violation charged. The complaint
24 shall be made under oath and signed by the complaining party before a person
25 who is legally empowered to administer oaths. The commission shall have no
26 jurisdiction in ***the*** absence of a complaint ***or the written approval of the chair***
27 ***and vice chair of the commission as provided in this subsection***. A member

1 of the commission may file a complaint. ***A penalty shall not be imposed in***
2 ***the absence of a complaint, except for penalties authorized under KRS***
3 ***6.797, 6.807, 6.821, and 6.824.***

4 (b) Within ten (10) days of the filing of a complaint, the commission shall cause a
5 copy of the complaint to be served by certified mail upon the person alleged to
6 have committed the violation.

7 (c) Within twenty (20) days of service of the complaint the person alleged to have
8 committed the violation may file an answer with the commission. The filing
9 of an answer is wholly permissive, and no inferences shall be drawn from the
10 failure to file an answer.

11 (d) Not later than ten (10) days after the commission receives the answer, or the
12 time expires for the filing of an answer, the commission shall initiate a
13 preliminary inquiry into any alleged violation of this code. If the commission
14 determines that the complaint fails to state a claim of an ethics violation, the
15 complaint shall be dismissed.

16 (e) Within thirty (30) days of the commencement of the inquiry, the commission
17 shall give notice of the status of the complaint and a general statement of the
18 applicable law to the person alleged to have committed a violation.

19 ***(f) A complaint may be filed against a former legislator within one (1) year of***
20 ***the date he or she left office, if the alleged violation occurred while he or***
21 ***she was a legislator. The one (1) year limitation does not apply if a***
22 ***complaint alleges a violation of KRS 6.757.***

23 (2) All commission proceedings, including the complaint and answer and other records
24 relating to a preliminary inquiry, shall be confidential until a final determination is
25 made by the commission, except:

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

1 which the offense allegedly occurred, evidence which may be used in criminal
2 proceedings; and

3 (b) If the complainant or alleged violator publicly discloses the existence of a
4 preliminary inquiry, the commission may publicly confirm the existence of the
5 inquiry and, in its discretion, make public any documents which were issued
6 to either party.

7 (3) The commission shall afford a person who is the subject of a preliminary inquiry an
8 opportunity to appear in response to the allegations in the complaint. The person
9 shall have the right to be represented by counsel, to appear and be heard under oath,
10 and to offer evidence in response to the allegations in the complaint.

11 (4) If the commission determines by the answer or in the preliminary inquiry that the
12 complaint does not allege facts sufficient to constitute a violation of this code, the
13 commission shall immediately terminate the matter and notify in writing the
14 complainant and the person alleged to have committed a violation. The commission
15 may confidentially inform the alleged violator of potential violations and provide
16 information to ensure future compliance with the law. If the alleged violator
17 publicly discloses the existence of such action by the commission, the commission
18 may confirm the existence of the action and, in its discretion, make public any
19 documents that were issued to the alleged violator.

20 (5) If the commission, during the course of the preliminary inquiry, finds probable
21 cause to believe that a violation of this code has occurred, the commission shall
22 notify the alleged violator of the finding, and the commission may, upon majority
23 vote:

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

1 violations of the law and provide a copy of the reprimand to the presiding
 2 officer of the house in which the alleged violator serves, or the alleged
 3 violator's employer, if the alleged violator is a legislative agent. The
 4 proceedings leading to a confidential reprimand and the reprimand itself shall
 5 remain confidential except that, if the alleged violator publicly discloses the
 6 existence of such an action, the commission may confirm the existence of the
 7 action and, in its discretion, make public any documents which were issued to
 8 the alleged violator; or

9 (b) Initiate an adjudicatory proceeding to determine whether there has been a
 10 violation.

11 (6) Any person who knowingly files with the commission a false complaint of
 12 misconduct on the part of any legislator or other person shall be guilty of a Class A
 13 misdemeanor.

14 ➔Section 3. KRS 6.701 is amended to read as follows:

15 (1) The commission shall establish and supervise a program of ethics education and
 16 training including[;] but not limited to[;]

17 (a) Preparing and publishing an ethics education manual[;]

18 (b) Designing and supervising orientation courses for new legislators ***and***
 19 ***partisan and nonpartisan Legislative Research Commission staff***[;] and

20 (c) Designing and supervising current issues seminars for legislators.

21 (2) The commission shall establish, supervise, and conduct a program of ethics
 22 education and training designed specifically for and made available to legislative
 23 agents.

24 ➔Section 4. KRS 6.706 is amended to read as follows:

25 (1) The ethics education manual shall include[;] but not be limited to[;] ethics statutes,
 26 administrative regulations, explanations of purposes and principles underlying the
 27 laws, explanations of technical and specific legal requirements, examples of

1 practical applications of the laws and principles, a questions-and-answers section
 2 regarding common problems and situations, summaries of advisory opinions, and
 3 any other information which would inform legislators about the required standards
 4 of conduct and assist them in applying those standards to specific situations.

5 (2) The commission shall provide for the distribution of the manual to legislators *and*
 6 *partisan and nonpartisan Legislative Research Commission staff.* ~~The~~
 7 ~~commission shall distribute the first manual no later than one hundred twenty (120)~~
 8 ~~days after appointment of the commission. On or before January 1, 1995, the~~
 9 ~~commission shall distribute a supplement including, but not limited to, updates,~~
 10 ~~additions, and revisions. Thereafter,]~~ The commission shall distribute revised and
 11 updated versions of the manual on or before January 1 of each odd-numbered year.

12 (3) Copies of the manual shall be made available to the public for a reasonable fee, not
 13 to exceed the actual cost, but not including the cost of staff required.

14 ➔Section 5. KRS 6.716 is amended to read as follows:

15 (1) The commission shall design the general curriculum of a current issues seminar,
 16 which shall include, but not be limited to, discussion of changes in the ethics laws
 17 and administrative regulations, new advisory opinions, current ethical issues
 18 confronting public servants, practical application of ethics laws and principles to
 19 specific issues and situations, and development of problem-solving skills. The
 20 commission shall prepare the methods and materials necessary to implement the
 21 curriculum.

22 (2) The commission shall:

- 23 (a) Administer the current issues seminars for legislators;
- 24 (b) Designate instructors to conduct their current issues courses who shall be
 25 trained by the commission; and
- 26 (c) Notify legislators regarding attendance in these seminars.

27 (3) The current issues seminars shall be conducted in January of each year. Each course

1 shall be at least two (2)~~three (3)~~ hours in length and shall be designed for approval
2 by the Kentucky Bar Association for continuing legal education ~~[ethics]~~ credits
3 which the bar association may require.

4 (4) To facilitate participant interaction, those portions of the seminars dedicated to
5 group participation may be closed to the public.

6 (5) Each legislator, after completion of an orientation training course, shall complete
7 one (1) current issues seminar annually.

8 ➔Section 6. KRS 6.731 is amended to read as follows:

9 A legislator, by himself or through others, shall not intentionally:

10 (1) Use or attempt to use his or her influence as a member of the General Assembly in
11 any matter which involves a substantial conflict between his or her personal interest
12 and his or her duties in the public interest. Violation of this subsection is a Class A
13 misdemeanor;

14 (2) Use his or her official position or office to obtain financial gain for himself or
15 herself, any members of the legislator's family, or a business associate of the
16 legislator. Violation of this subsection is a Class D felony;

17 (3) Use or attempt to use his or her official position to secure or create privileges,
18 exemptions, advantages, or treatment for himself or herself or others in direct
19 contravention of the public interest at large. Violation of this subsection is a Class A
20 misdemeanor;

21 (4) Use public funds, time, or personnel for his or her private gain or that of another,
22 unless the use is authorized by law. Violation of this subsection is a Class A
23 misdemeanor;

24 (5) Use public funds, time, or personnel for partisan political campaign activity, unless
25 the use is:

26 (a) Authorized by law; or

27 (b) Properly incidental to another activity required or authorized by law, such as

1 elections to constitutional or party offices within the General Assembly.

2 Violation of this subsection is a Class A misdemeanor;

3 (6) Use his or her official legislative stationery, or a facsimile thereof, to solicit a vote
 4 or a contribution for his, or hers, or another person's campaign for election or
 5 reelection to public office, or use the great seal of the Commonwealth on his or her
 6 campaign stationery or campaign literature. For purposes of this subsection,
 7 "official legislative stationery" means the stationery used by a legislator on a day-to-
 8 day basis for correspondence related to his or her duties as a member of the General
 9 Assembly. Violation of this subsection is ethical misconduct; ~~[-]~~

10 (7) While in the discharge of the duties of his or her office, become intoxicated by the
 11 use of spiritous, vinous, or malt liquors, or any controlled substance, as defined in
 12 KRS 218A.010. Any legislator who is unable, incompetent, or disqualified to
 13 discharge any of the duties of his or her office because of the use of spiritous,
 14 vinous, or malt liquors, or any controlled substance, as defined in KRS 218A.010,
 15 shall be deemed to have violated this subsection. Violation of this subsection is
 16 ethical misconduct; or

17 **(8) Send any mass mailing at public expense to residents of his or her district within**
 18 **ninety (90) days prior to a regular election in an even-numbered year. "Mass**
 19 **mailing" means any mailing or series of mailings of a similar nature which add**
 20 **up to more than fifty (50) pieces of mail. Violation of this subsection is ethical**
 21 **misconduct.**

22 ➔Section 7. KRS 6.767 is amended to read as follows:

23 (1) ~~{For purposes of this section, "accept" means the date a contribution is postmarked,~~
 24 ~~if mailed, or the date of the hand delivery, if the contribution is hand-delivered.~~

25 ~~(2)~~—A member of the General Assembly, candidate for the General Assembly, or his or
 26 her campaign committee shall not accept a campaign contribution from a legislative
 27 agent. Violation of this provision is ethical misconduct.

1 ~~(2)~~~~(3)~~ A member of the General Assembly, candidate for the General Assembly, or
2 his or her campaign committee shall not, during a regular session of the General
3 Assembly, accept a campaign contribution from an employer of a legislative agent,
4 or from a permanent committee as defined in KRS 121.015. **Campaign**
5 **contributions under this subsection may be accepted if postmarked or delivered**
6 **prior to the first day of a regular session of the General Assembly.** This subsection
7 shall not apply to candidates for the General Assembly in a special election held
8 during a regular session of the General Assembly. Violation of this provision is
9 ethical misconduct.

10 ~~(3)~~~~(4)~~ It shall be a complete defense under this section if the legislator, candidate, or
11 his or her campaign committee receives a campaign contribution from a legislative
12 agent or, during a regular session, from an employer or from a permanent
13 committee, which fact is unknown to the legislator, candidate, or committee at the
14 time of receipt, if the legislator, candidate, or his or her campaign committee either
15 returns the contribution within thirty (30) days of receipt, and within fourteen (14)
16 additional days makes that fact, together with the name of the contributor, amount
17 of the contribution, and the date of return or payment known, in writing to the
18 commission. It shall also be a defense if a legislator, candidate, or his or her
19 campaign committee receives a campaign contribution from a legislative agent
20 whose name does not yet appear on the list of legislative agents and their employers
21 furnished to the Legislative Research Commission if the legislator, candidate, or his
22 or her campaign committee returns the campaign contribution within thirty (30)
23 days of the Legislative Research Commission's receipt of the list bearing the name
24 of the legislative agent and all employers and makes the written disclosure to the
25 commission required in this subsection. The time periods shall be tolled upon the
26 filing with the commission of a request for an advisory opinion regarding the
27 campaign contribution. Upon the issuance of the opinion or decision not to render

1 an opinion, the time period shall resume.

2 ➔Section 8. KRS 6.811 is amended to read as follows:

- 3 (1) A legislative agent or employer shall not knowingly fail to register, as required
4 under KRS 6.807.
- 5 (2) A legislative agent or employer shall not knowingly fail to keep a receipt or
6 maintain a record which KRS 6.821 requires the person to keep or maintain.
- 7 (3) A person shall not knowingly fail to file a statement that KRS 6.807, 6.821, or
8 6.824 requires the person to file.
- 9 (4) A legislative agent or employer shall not knowingly offer, give, or agree to give
10 anything of value to a legislator, a candidate, or the spouse or child of a legislator or
11 candidate.
- 12 (5) A legislative agent shall not serve as a campaign treasurer, and shall not directly
13 solicit, control, or deliver a campaign contribution, for a candidate or legislator.
- 14 (6) A legislative agent shall not make a campaign contribution to a legislator, a
15 candidate, or his or her campaign committee.
- 16 (7) During a regular session of the General Assembly, an employer of a legislative
17 agent shall not make a campaign contribution to a legislator, candidate, campaign
18 committee for a legislator or candidate, or caucus campaign committee. This
19 subsection shall not apply to candidates for the General Assembly in a special
20 election held during a regular session of the General Assembly.
- 21 (8) (a) An employer shall not knowingly employ, appoint, or retain a serving
22 legislator or former legislator as a legislative agent until at least two (2) years
23 have elapsed from the date on which he or she vacated his or her office.
- 24 (b) *An employer shall not knowingly employ, appoint, or retain the spouse of a*
25 *serving legislator as a legislative agent.*
- 26 (9) No person shall engage any person to lobby in exchange for compensation that is
27 contingent in any way upon the passage, modification, or defeat of any legislation.

- 1 No person shall accept any engagement to lobby in exchange for compensation that
2 is contingent in any way upon the passage, modification, or defeat of any
3 legislation. Violation of this provision is a Class D felony.
- 4 (10) A legislative agent or other lobbyist shall not go upon the floor of either house of
5 the General Assembly while the house is in session, except upon invitation of that
6 house. Violation of this provision is a Class B misdemeanor.
- 7 (11) If any legislative agent or employer violates any provision in subsections (4) to (8)
8 of this section, he or she shall for the first violation be guilty of ethical misconduct.
9 For the second and each subsequent violation, he or she shall be guilty of a Class D
10 felony.