

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, 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, or door prizes
22 available to the public;
- 23 (6) "Income" means any money or thing of value received or to be received as a claim
24 on future services, whether in the form of a fee, salary, expense allowance,
25 forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other
26 form of compensation or any combination thereof;
- 27 (7) "Officer" means all major management personnel in the executive branch of state

1 government, including the secretary of the cabinet, the Governor's chief executive
 2 officers, cabinet secretaries, deputy cabinet secretaries, general counsels,
 3 commissioners, deputy commissioners, executive directors, principal assistants,
 4 division directors, members and full-time chief administrative officers of the Parole
 5 Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems
 6 board of trustees, Kentucky Teachers' Retirement System board of trustees, Public
 7 Service Commission, Worker's Compensation Board and its administrative law
 8 judges, the Kentucky Occupational Safety and Health Review Commission, the
 9 Kentucky Board of Education, the Council on Postsecondary Education, and any
 10 person who holds a personal service contract to perform on a full-time basis for a
 11 period of time not less than six (6) months a function of any position listed in this
 12 subsection;

13 (8) "Official duty" means any responsibility imposed on a public servant by virtue of
 14 his or her position in the state service;

15 (9) "Public servant" means:

16 (a) The Governor;

17 (b) The Lieutenant Governor;

18 (c) The Secretary of State;

19 (d) The Attorney General;

20 (e) The Treasurer;

21 (f) The Commissioner of Agriculture;

22 (g) The Auditor of Public Accounts; ~~and~~

23 (h) All merit and nonmerit employees in the executive branch, except those
 24 specified in paragraph (i) of this subsection ~~including officers as defined in~~
 25 ~~subsection (7) of this section and merit employees~~; and

26 (i) All officers as defined in subsection (7) of this section;

27 (10) "Agency" means every state office, cabinet, department, board, commission, public

- 1 corporation, or authority in the executive branch of state government. A public
2 servant is employed by the agency by which his or her appointing authority is
3 employed, unless his or her agency is attached to the appointing authority's agency
4 for administrative purposes only, or unless the agency's characteristics are of a
5 separate independent nature distinct from the appointing authority and it is
6 considered an agency on its own, such as an independent department;
- 7 (11) "Lobbyist" means any person employed as a legislative agent as defined in KRS
8 6.611(23) or any person employed as an executive agency lobbyist as defined in
9 KRS 11A.201(8);
- 10 (12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes,
11 opposes, or acts;
- 12 (13) "Candidate" means those persons who have officially filed candidacy papers or who
13 have been nominated by their political party pursuant to KRS 118.105, 118.115,
14 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of
15 this section;
- 16 (14) "Does business with" or "doing business with" means contracting, entering into an
17 agreement, leasing, or otherwise exchanging services or goods with a state agency
18 in return for payment by the state, including accepting a grant, but not including
19 accepting a state entitlement fund disbursement;
- 20 (15) "Public agency" means any governmental entity;
- 21 (16) "Appointing authority" means the agency head or any person whom he or she has
22 authorized by law to act on behalf of the agency with respect to employee
23 appointments;
- 24 (17) "Represent" means to attend an agency proceeding, write a letter, or communicate
25 with an employee of an agency on behalf of someone else;
- 26 (18) "Directly involved" means to work on personally or to supervise someone who
27 works on personally;

1 (19) "Sporting event" means any professional or amateur sport, athletic game, contest,
2 event, or race involving machines, persons, or animals, for which admission tickets
3 are offered for sale and that is viewed by the public; and

4 (20) "Person" means an individual, proprietorship, firm, partnership, limited partnership,
5 joint venture, joint stock company, syndicate, business or statutory trust, donative
6 trust, estate, company, corporation, limited liability company, association, club,
7 committee, organization, or group of persons acting in concert.

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

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

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

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

20 (4) A public servant shall not knowingly~~[himself]~~ or through any business in which he
21 or she owns or controls an interest of more than five percent (5%), or by any other
22 person for his or her use or benefit or on his or her account, undertake, execute,
23 hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease,
24 sale, or purchase made, entered into, awarded, or granted by the agency by which he
25 or she is employed or which he supervises, subject to the provisions of KRS
26 45A.340. This provision shall not apply to:

27 (a) A contract, purchase, or good faith negotiation made pursuant to KRS Chapter

- 1 416 relating to eminent domain; or
- 2 (b) Agreements which may directly or indirectly involve public funds disbursed
- 3 through entitlement programs; or
- 4 (c) A public servant's spouse or child doing business with any state agency other
- 5 than the agency by which the public servant is employed or which he or she
- 6 supervises; or
- 7 (d) Purchases from a state agency that are available on the same terms to the
- 8 general public or that are made at public auction; or
- 9 (e) Sales of craft items to a state park by interim state employees designated as
- 10 craftspersons under KRS 148.257.
- 11 (5) A public servant shall not knowingly accept compensation, other than that provided
- 12 by law for public servants, for performance of his or her official duties without the
- 13 prior approval of the commission.
- 14 (6) A former officer or public servant listed in KRS 11A.010(9)(a) to (g) shall not,
- 15 within six (6) months of termination of his or her employment, knowingly by
- 16 himself or herself or through any business in which he or she owns or controls an
- 17 interest of at least five percent (5%), or by any other person for his or her use or
- 18 benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in
- 19 whole or in part, any contract, agreement, lease, sale, or purchase made, entered
- 20 into, awarded, or granted by the agency by which he or she was employed. This
- 21 provision shall not apply to a contract, purchase, or good faith negotiation made
- 22 under KRS Chapter 416 relating to eminent domain or to agreements that may
- 23 directly or indirectly involve public funds disbursed through entitlement programs.
- 24 This provision shall not apply to purchases from a state agency that are available on
- 25 the same terms to the general public or that are made at public auction. This
- 26 provision shall not apply to former officers of the Department of Public Advocacy
- 27 whose continued representation of clients is necessary in order to prevent an adverse

1 effect on the client.

2 (7) A present or former officer or public servant listed in KRS 11A.010(9)(a) to (g)
3 shall not, within six (6) months following termination of his or her office or
4 employment, accept employment, compensation, or other economic benefit from
5 any person or business that contracts or does business with, or is regulated by, the
6 state in matters in which he or she was directly involved during the last thirty-six
7 (36) months of his tenure. This provision shall not prohibit an individual from
8 returning to the same business, firm, occupation, or profession in which he or she
9 was involved prior to taking office or beginning his or her term of employment, or
10 for which he or she received, prior to his state employment, a professional degree or
11 license, provided that, for a period of six (6) months, he or she personally refrains
12 from working on any matter in which he or she was directly involved during the last
13 thirty-six (36) months of his or her tenure in state government. This subsection
14 shall not prohibit the performance of ministerial functions, including but not limited
15 to filing tax returns, filing applications for permits or licenses, or filing
16 incorporation papers, nor shall it prohibit the former officer or public servant from
17 receiving public funds disbursed through entitlement programs.

18 (8) A former public servant listed in subsection (9)(a) to (h) of Section 1 of this Act
19 shall not act as a lobbyist or lobbyist's principal in matters in which he or she was
20 directly involved during the last thirty-six (36) months of his or her tenure for a
21 period of one (1) year after the latter of:

- 22 (a) The date of leaving office or termination of employment; or
23 (b) The date the term of office expires to which the public servant was elected.

24 (9) A former officer shall not act as a lobbyist or lobbyist's principal for a period of
25 two (2) years after the date of leaving office or termination of employment.

26 (10) A former public servant shall not represent a person or business before a state
27 agency in a matter in which the former public servant was directly involved during

1 the last thirty-six (36) months of his or her tenure, for a period of one (1) year after
2 the latter of:

- 3 (a) The date of leaving office or termination of employment; or
4 (b) The date the term of office expires to which the public servant was elected.

5 ~~(11)~~~~(10)~~ Without the approval of his or her appointing authority, a public servant shall
6 not accept outside employment from any person or business that does business with
7 or is regulated by the state agency for which the public servant works or which he
8 or she supervises, unless the outside employer's relationship with the state agency is
9 limited to the receipt of entitlement funds.

10 (a) The appointing authority shall review administrative regulations
11 promulgated~~established~~ under KRS Chapter 11A when deciding whether to
12 approve outside employment for a public servant.

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

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

20 ~~(12)~~~~(11)~~ The prohibitions imposed by subsection (5) or ~~(11)~~~~(10)~~ of this section shall
21 not apply to Professional Golfers' Association class A members who teach golf
22 lessons and receive a fee or lesson charge at golf courses owned and operated by the
23 Kentucky Department of Parks. Instruction provided by an employee of the
24 Commonwealth shall only be given while the employee is on his or her own
25 personal time. The commissioner of the Department of Parks shall promulgate
26 administrative regulations to establish guidelines for the process by which
27 Professional Golfers' Association class A members are approved to teach golf

1 lessons at Kentucky Department of Parks-owned golf courses. The exception
2 granted by this subsection is in recognition of the benefits that will accrue to the
3 Kentucky Department of Parks due to increased participation at state-owned golf
4 courses.