

**CHAPTER 184****( HB 517 )**

AN ACT relating to legislative ethics.

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

➔Section 1. KRS 6.681 is amended to read as follows:

- (1) The commission may render advisory opinions concerning matters under its jurisdiction, based upon real or hypothetical circumstances, when requested by:
  - (a) Any person covered by this code;
  - (b) Any person who is personally and directly involved in the matter; or
  - (c) The commission upon its own initiative.
- (2)
  - (a) An advisory opinion shall be requested in writing and shall state relevant facts and ask specific questions. The request for the advisory opinion shall remain confidential unless confidentiality is waived, in writing, by the requestor.
  - (b) ***No less than five (5) days prior to the meeting in which the commission is scheduled to consider an advisory opinion, the commission shall provide a draft of its proposed response to the advisory opinion request, or notice of its intention not to issue an advisory opinion, to the requestor and each commissioner. The requestor may appear personally, with or without counsel, before the commission in closed session to provide comment on the proposed response prior to the commission's vote on the request.***
- (3) Advisory opinions shall be based on the Kentucky Revised Statutes as written and shall not be based on the personal opinions of commission members as to legislative intent or the spirit of the law.
- (4) The commission shall promulgate administrative regulations to establish criteria under which it may issue confidential advisory opinions. All other advisory opinions shall be published except that before an advisory opinion is made public, it shall be modified so that the identity of any person associated with the opinion shall not be revealed.
- (5) The confidentiality of an advisory opinion may be waived either:
  - (a) In writing by the person who requested the opinion; or
  - (b) By majority vote of the members of the commission, if a person makes or purports to make public the substance or any portion of an advisory opinion requested by or on behalf of the person. The commission may vote to make public the advisory opinion request and related materials.
- (6)
  - (a) A written advisory opinion issued by the commission shall be binding on the commission in any subsequent proceeding concerning the facts and circumstances of the particular case if no intervening facts or circumstances arise which would change the opinion of the commission if they had existed at the time the opinion was rendered. However, if any fact determined by the commission to be material was omitted or misstated in the request for an opinion, the commission shall not be bound by the opinion.
  - (b) A written advisory opinion shall be admissible in the defense of any criminal prosecution or civil proceeding for violations of this code for actions taken in reliance on that opinion.

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

- (1)
  - (a) The commission shall have jurisdiction to investigate and proceed as to any violation of this code upon the filing of a complaint. The complaint shall be a written statement alleging a violation against one (1) or more named persons and stating the essential facts constituting the violation charged. The complaint shall be made under oath and signed by the complaining party before a person who is legally empowered to administer oaths. The commission shall have no jurisdiction in the absence of a complaint. A member of the commission may file a complaint.

- (b) Within ten (10) days of the filing of a complaint, the commission shall cause a copy of the complaint to be served by certified mail upon the person alleged to have committed the violation.
  - (c) Within twenty (20) days of service of the complaint the person alleged to have committed the violation may file an answer with the commission. The filing of an answer is wholly permissive, and no inferences shall be drawn from the failure to file an answer.
  - (d)
    1. ~~[Not later than ten (10) days ]~~After the commission receives the answer, or the time expires for the filing of an answer, the commission ***may dismiss the matter for failure to state a claim of an ethics violation, or otherwise*** shall ~~determine~~*initiate a preliminary inquiry into any alleged violation of this code. If the commission determines* upon the affirmative vote of at least five (5) members, at either ***the next***~~a~~ regularly scheduled meeting~~], or a teleconference meeting called upon the chair's oral or written notice to all members of the commission, whether there is reason to believe the person named in the complaint has committed or is about to commit~~~~that the complaint fails to state a claim of]~~ an ethics violation~~, the complaint shall be dismissed~~.
    2. ***If the commission determines that there is reason to believe the person named in the complaint has committed or is about to commit a violation of this code, upon an affirmative vote of at least five (5) members, the commission shall initiate a preliminary inquiry into the alleged violations pursuant to subsections (3) to (5) of this section. A determination by the commission under this subparagraph:***
      - a. ***Means that the commission believes that the alleged violation merits further inquiry, and the commission shall proceed with its inquiry and investigation; and***
      - b. ***Is not a finding that a person named in a complaint has violated this code.***
    3. ***If the commission fails to determine by an affirmative vote of at least five (5) members that there is reason to believe the respondent has committed or is about to commit a violation of this code, the complaint shall be dismissed.***
  - (e) Within thirty (30) days of the commencement of the inquiry, the commission shall give notice of the status of the complaint and a general statement of the applicable law to the person alleged to have committed a violation.
  - (f) A complaint may be filed against a former legislator, a former legislative agent, or a former employer of a legislative agent within one (1) year of the date he or she left office or terminated lobbying registration. The one (1) year limitation shall not apply if a complaint alleges a violation of KRS 6.757.
  - (g) The applicable criminal statutes of limitation shall not apply to ethical misconduct under KRS 6.601 to 6.849.
- (2) All commission proceedings, including the complaint and answer and other records relating to a preliminary inquiry, shall be confidential until a final determination is made by the commission, except:
- (a) The commission may turn over to the Attorney General, the United States Attorney, Commonwealth's attorney, or county attorney of the jurisdiction in which the offense allegedly occurred, evidence which may be used in criminal proceedings; and
  - (b) If the complainant or alleged violator publicly discloses the existence of a preliminary inquiry, the commission may publicly confirm the existence of the inquiry and, in its discretion, make public any documents which were issued to either party.
- (3) The commission shall afford a person who is the subject of a preliminary inquiry an opportunity to appear in response to the allegations in the complaint. The person shall have the right to be represented by counsel, to appear and be heard under oath, and to offer evidence in response to the allegations in the complaint.
- (4) If the commission determines by the answer or in the preliminary inquiry that the complaint does not allege facts sufficient to constitute a violation of this code, the commission shall immediately terminate the matter and notify in writing the complainant and the person alleged to have committed a violation. The commission may confidentially inform the alleged violator of potential violations and provide information to ensure future compliance with the law. If the alleged violator publicly discloses the existence of such action by the commission, the commission may confirm the existence of the action and, in its discretion, make public any documents that were issued to the alleged violator.

- (5) If the commission, during the course of the preliminary inquiry, finds probable cause to believe that a violation of this code has occurred, the commission shall notify the alleged violator of the finding, and the commission may, upon majority vote:
- (a) Due to mitigating circumstances such as lack of significant economic advantage or gain by the alleged violator, lack of significant economic loss to the state, or lack of significant impact on public confidence in government, confidentially reprimand, in writing, the alleged violator for potential violations of the law and provide a copy of the reprimand to the presiding officer of the house in which the alleged violator serves, or the alleged violator's employer, if the alleged violator is a legislative agent. The proceedings leading to a confidential reprimand and the reprimand itself shall remain confidential except that, if the alleged violator publicly discloses the existence of such an action, the commission may confirm the existence of the action and, in its discretion, make public any documents which were issued to the alleged violator; or
  - (b) Initiate an adjudicatory proceeding to determine whether there has been a violation.
- (6) Any person who knowingly files with the commission a false complaint of misconduct on the part of any legislator or other person shall be guilty of a Class A misdemeanor.

➔Section 3. KRS 6.611 is amended to read as follows:

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

- (1) "Adversarial proceeding" means a proceeding in which decisions are made based upon evidence presented as measured against established standards, with parties having the right to appeal the decision on the record to a court;
- (2) (a) "Anything of value" includes the following:
  - 1. A pecuniary item, including money, or a bank bill or note;
  - 2. A promissory note, bill of exchange, order, draft, warrant, check, or bond given for the payment of money;
  - 3. A contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
  - 4. A stock, bond, note, or other investment interest in an entity;
  - 5. A receipt given for the payment of money or other property;
  - 6. A right in action;
  - 7. A gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;
  - 8. A loan or forgiveness of indebtedness;
  - 9. A work of art, antique, or collectible;
  - 10. An automobile or other means of personal transportation;
  - 11. Real property or an interest in real property, including title to realty; a fee simple or partial interest, present or future, contingent or vested, within realty; a leasehold interest; or other beneficial interest in realty;
  - 12. A rebate or discount in the price of anything of value unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person's status as a legislator;
  - 13. A promise or offer of employment; or
  - 14. Any other thing of value that is pecuniary or compensatory in value to a person, or the primary significance of which is economic gain.
- (b) "Anything of value" does not include:
  - 1. A campaign contribution properly received and reported, if reportable, as required under KRS Chapter 121;

2. Compensation, food, beverages, entertainment, transportation, lodging, or other goods or services extended to a legislator by the legislator's private employer or by a person other than a legislative agent or employer;
  3. A usual and customary commercial loan made in the ordinary course of business, without regard to the recipient's status as a legislator, and by a person or institution authorized by law to engage in the business of making loans;
  4. A certificate, plaque, or commemorative token of less than one hundred fifty dollars (\$150) value;
  5. Promotional items of less than fifty dollars (\$50);
  6. Educational items;
  7. Informational items;
  8. The cost of attendance or participation, and of food and beverages consumed, at events:
    - a. To which all members of the Kentucky Senate or the Kentucky House of Representatives, or both, are invited;
    - b. To which all members of a joint committee or task force of the Kentucky Senate and the Kentucky House of Representatives are invited;
    - c. To which a caucus of legislators approved as a caucus by the Legislative Research Commission is invited;
    - d. Sponsored or coordinated by a state or local government entity, including a state institution of higher education, provided that the cost thereof is covered by the state or local government entity or state institution of higher education; or
    - e. To which an individual legislator is invited that are held in-state, and for which the legislator receives prior approval from a majority of the Legislative Research Commission;
  9. Gifts from a person related by blood or marriage or a member of the legislator's household;
  10. A gift that:
    - a. Is not used; and
    - b. No later than thirty (30) days after receipt, is returned to the donor or delivered to a charitable organization and is not claimed as a charitable contribution for federal income tax purposes;
  11. The cost, paid, reimbursed, raised, or obtained by the Legislative Research Commission, for attendance or participation, and for food and beverages consumed at, and funds, goods, and services provided for conducting events sponsored or coordinated by multistate or national organizations of, or including, state governments, state legislatures, or state legislators if the attendance and expenditures are approved in advance by the Legislative Research Commission;
  12. The cost of attendance or participation provided by the sponsoring entity, of lodging, and of food and beverages consumed, at in-state events sponsored by or in conjunction with a civic, charitable, governmental, trade association, or community organization;
  13. A gift or gifts from one member of the General Assembly to another member of the General Assembly;
  14. Anything for which the recipient pays or gives full value; or
  15. Any service spontaneously extended to a legislator in an emergency situation;
- (3) "Associated," if used with reference to an organization, includes an organization in which an individual or a member of the individual's family is a director, officer, fiduciary, trustee, agent, or partner, or owns or controls, in the aggregate, an interest of ten thousand dollars (\$10,000) or more, or an interest of five percent (5%) or more of the outstanding equity;

- (4) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, professional service corporation, or any legal entity through which business is conducted for profit;
- (5) "Business associate" includes the following:
  - (a) A private employer;
  - (b) A general or limited partnership, or a general or limited partner within the partnership;
  - (c) A corporation that is family-owned or in which all shares of stock are closely held, and the shareholders, owners, and officers of such a corporation;
  - (d) A corporation in which the legislator or other person subject to this code has an investment interest, owns, or has a beneficial interest in shares of stock which constitute more than:
    - 1. Five percent (5%) of the value of the corporation; or
    - 2. Ten thousand dollars (\$10,000) at fair market value;
  - (e) A corporation, business association, or other business entity in which the legislator or other person subject to this code serves as an agent or a compensated representative;
- (6) "Candidate" means an individual who seeks nomination or election to the General Assembly. An individual is a candidate when the individual:
  - (a) Files a notification and declaration for nomination for office with the Secretary of State; or
  - (b) Is nominated for office by his or her party under KRS 118.105, 118.115, 118.325, or 118.760;
- (7) "Charitable organization" means an organization described in 26 U.S.C. Sec. 170(c) as it currently exists or as it may be amended;
- (8) "Child" means the unemancipated minor daughter, son, stepdaughter, or stepson;
- (9) "Commission" means the Kentucky Legislative Ethics Commission;
- (10) (a) "Compensation" means:
  - 1. An advance, salary, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money; or
  - 2. A contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money for services rendered or to be rendered.
  - (b) "Compensation" does not include reimbursement of expenses if:
    - 1. The reimbursement is equal to, or less than, the amount paid for the expenses;
    - 2. Expense records are itemized; and
    - 3. No portion of the reimbursed expense is used to give anything of value to a legislator, candidate, or the spouse of a legislator or candidate;
- (11) "Economic interest" means an interest distinct from that of the general public in a state purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services in which a legislator may gain an economic benefit of fifty dollars (\$50) or more;
- (12) "Employer" means any person who engages a legislative agent and in the case of a business other than a sole proprietorship or self-employed individual, it means the business entity, and not an individual officer, director, or employee thereof, except when an officer, director, or employee makes an expenditure for which he or she is reimbursed by the business entity;
- (13) "Engage" means to make any arrangement, and "engagement" means any arrangement, by which an individual is employed or retained for compensation to act for or on behalf of an employer to lobby;
- (14) "Ethical misconduct" means any violation of the Kentucky Code of Legislative Ethics;

- (15) (a) "Expenditure" means any of the following that is made to, at the request of, for the benefit of, or on behalf of any member of the General Assembly, the Governor, the secretary of a cabinet listed in KRS 12.250, or any member of the staff of any of those officials:
1. A payment, distribution, loan, advance, deposit, reimbursement, or gift of money, real estate, or anything of value, including, but not limited to, food and beverages, entertainment, lodging, transportation, or honoraria;
  2. A contract, promise, or agreement, to make an expenditure; or
  3. The purchase, sale, or gift of services or any other thing of value.
- (b) "Expenditure" does not include a contribution, gift, or grant to a foundation or other charitable organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code. "Expenditure" does not include the purchase, sale, or gift of services or any other thing of value that is available to the general public on the same terms as it is available to the persons listed in this subsection;
- (16) "Family member" means a person:
- (a) Who is the spouse, parent, sibling, child, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, or grandchild of an individual; or
  - (b) Who is a member of the individual's household, and is dependent upon the individual;
- (17) "Filer" means an individual who is required to file a statement of financial interests pursuant to KRS 6.781;
- (18) (a) "Financial transaction" means a transaction or activity that is conducted or undertaken for profit and arises from the joint ownership, ownership, or part ownership in common of any real or personal property or any commercial or business enterprise of whatever form or nature between the following:
1. A legislative agent, his or her employer, or a member of the immediate family of the legislative agent or his or her employer; and
  2. Any member of the General Assembly, the Governor, the secretary of a cabinet listed in KRS 12.250, or any member of the staff of any of the officials listed in this subparagraph.
- (b) "Financial transaction" does not include any transaction or activity:
1. Described in paragraph (a) of this subsection if it is available to the general public on the same or similar terms and conditions; or
  2. Made or let after public notice and competitive bidding or contracts that are available on similar terms to other members of the general public.
- (19) "Former legislator" means a person who previously held a position as a legislator and who no longer holds that position;
- (20) "Immediate family" means an unemancipated child residing in an individual's household, a spouse of an individual, or a person claimed by the individual as a dependent for tax purposes;
- (21) "In-state" means within the borders of Kentucky or outside Kentucky in a county that is contiguous with the border of Kentucky;
- (22) "Legislation" means bills, resolutions, amendments, nominations, administrative regulations, and any other matter pending before the General Assembly or any of its interim or statutory committees, or the executive approval or veto of any bill acted upon by the General Assembly;
- (23) (a) "Legislative agent" means any individual who is engaged:
1. During at least a portion of his or her time to lobby as one (1) of his or her official responsibilities; or
  2. In lobbying activities as a legislative liaison of an association, coalition, or public interest entity formed for the purpose of promoting or otherwise influencing legislation.
- (b) "Legislative agent" does not include:

1. Any person who limits his or her lobbying activities to appearing before public meetings of legislative committees, subcommittees, or task forces, or public hearings or meetings of public agencies;
  2. A private citizen who receives no compensation for lobbying and who expresses a personal opinion; or
  3. A public servant acting in his or her fiduciary capacity as a representative of his or her agency, college, university, or city, county, urban-county, consolidated local government, unified local government, or charter county government, except persons engaged by a de jure municipal corporation, such as the Kentucky Lottery Corporation or the Kentucky Housing Corporation, institutions of higher education, or local governments, whose primary responsibility during sessions of the General Assembly is to lobby;
- (24) "Legislative interest" means a substantial economic interest, distinct from that of the general public, in one (1) or more legislative matters;
- (25) "Legislative matter" means any bill, resolution, nomination, or other issue or proposal pending before the General Assembly or any interim committee, committee, subcommittee, task force, or commission of the General Assembly;
- (26) "Legislator" means a member or member-elect of the General Assembly;
- (27) (a) "Lobby" means to promote, advocate, or oppose the passage, modification, defeat, or executive approval or veto of any legislation by direct communication with any member of the General Assembly, the Governor, the secretary of any cabinet listed in KRS 12.250, or any member of the staff of any of the officials listed in this paragraph.
- (b) "Lobbying" does not include:
1. Appearances before public meetings of the committees, subcommittees, task forces, and interim committees of the General Assembly;
  2. News, editorial, and advertising statements published in newspapers, journals, or magazines, or broadcast over radio or television;
  3. The gathering and furnishing of information and news by bona fide reporters, correspondents, or news bureaus to news media described in paragraph (b)2. of this subsection;
  4. Publications primarily designed for, and distributed to, members of bona fide associations or charitable or fraternal nonprofit corporations;
  5. Professional services in drafting bills or resolutions, preparing arguments on these bills or resolutions, or in advising clients and rendering opinions as to the construction and the effect of proposed or pending legislation, if the services are not otherwise connected with lobbying;~~for~~
  6. The action of any person not engaged by an employer who has a direct interest in legislation, if the person, acting under Section 1 of the Kentucky Constitution, assembles together with other persons for their common good, petitions any official listed in this subsection for the redress of grievances, or other proper purposes; **or**
  7. ***The action of any natural person:***
    - a. ***Whose official responsibilities do not include lobbying;***
    - b. ***Who is not compensated specifically for the purpose of lobbying;***
    - c. ***Who is an officer, managerial personnel, or an employee with specialized knowledge or expertise of, a business, joint venture, syndicate, estate, company, association, club, committee, or group of persons acting in concert which has a direct interest in the specific legislation; and***
    - d. ***Who participates in meetings or conversations while accompanying a legislative agent engaged by the employer or organization to lobby on the particular issue;***

- (28) "Person" means an individual, proprietorship, firm, partnership, joint venture, joint stock company, syndicate, business, trust, estate, company, corporation, association, club, committee, organization, or group of persons acting in concert;
- (29) "Public servant" means an elected or appointed officer or employee of a federal or state agency; state institution of higher education; or a city, county, urban-county, or charter county government;
- (30) "State agency" means any department, office, commission, board, or authority within the executive department, and includes state-supported universities and colleges but does not include local boards of education; and
- (31) "Through others" means a scheme, artifice, or mechanism, the sole purpose of which is to accomplish by indirect means, using third parties, results which would be unlawful under this code if accomplished directly between a legislator or candidate and another person or entity.

➔ Section 4. KRS 6.744 is amended to read as follows:

- (1) A legislator, by himself or through others, shall not use or attempt to use any means to influence a state agency in direct contravention of the public interest at large.
  - (a) Absent an express threat of legislative reprisal, nothing in this subsection shall prevent a legislator from contacting a state agency on behalf of a person or constituent, to make a legislative inquiry, or to obtain information relating to a person or constituent who has requested legislative assistance and given written or verbal consent for a member to make an inquiry on his or her behalf.
  - (b) Violation of this subsection is ethical misconduct.
- (2) A legislator shall not, for compensation, appear before a state agency as an expert witness. A violation of this subsection is ethical misconduct.
- (3) A legislator who is properly licensed may, for compensation, represent a client before a state agency in:
  - (a) A ministerial function which does not require discretion on the part of the agency, including, but not limited to:
    - 1. Filing corporation charters, reports, and other papers;
    - 2. Filing tax returns;
    - 3. Filing reports required by a state agency;
    - 4. Filing an application to participate in a state or state-administered federal program, generally available to similar classes of persons or business entities.
  - (b) An adversarial proceeding and negotiations related thereto;
  - (c) Workers' compensation and special fund proceedings;
  - (d) Unemployment compensation proceedings; and
  - (e) All other matters, unless the representation is prohibited by subsections (5) to (7) of this section or the code of professional conduct observed by the profession being practiced.
- (4) A legislator who is properly licensed may, for compensation, represent a client before a court or trial commissioner in any proceeding not prohibited by the Kentucky Rules of Professional Conduct or by subsections (5) to (7) of this section.
- (5) Other than for a ministerial function provided for under subsection (3) of this section, even though properly licensed, a legislator ~~shall may~~ not, for compensation, represent or engage in negotiations on behalf of a client before or with a state agency in proceedings related to the following matters:
  - (a) Contracting for the purchase, sale, rental, or lease of real property, goods, or services from a state agency;
  - (b) Any proceeding relating to ratemaking;
  - (c) Adoption, amendment, or repeal of any administrative regulation;
  - (d) Obtaining grants of money or loans;



- (e) Licensing or permitting, ***however, a legislator may represent a client in a ministerial function regarding licensing and permitting, adversarial matters related to a previously-issued license or permit, or matters related to driver licensing***~~[but not including matters related to driver licensing]~~; or
  - (f) Any proceeding before the Public Service Commission.
- (6) A legislator who is licensed in any profession shall not, for compensation, represent the Commonwealth or any state agency.
  - (7) A legislator who is an attorney shall not for compensation maintain an action for the purpose of receiving money damages against the Commonwealth in which the Commonwealth is the principal defendant or against a state agency in which the agency is the principal defendant. This subsection shall not apply to:
    - (a) An appeal of an action by the state against the client;
    - (b) Cases before the Workers' Compensation Board, including cases in which the special fund is a party; and
    - (c) Unemployment compensation cases.
  - (8) A legislator who is properly licensed who has a partner who is also properly licensed and whose partner practices cases which the legislator is precluded from handling under the provisions of this section shall report to the commission in the report required under KRS 6.787, the names of the agencies before which the partners practiced and the names of the clients represented by the partners.
  - (9) A legislator shall not receive or enter into any express or implied agreement to receive compensation for services to be rendered in relation to any case, proceeding, application, or other matter before any state agency, in which his compensation is to be dependent or contingent upon any action by the agency. Violation of this subsection is ethical misconduct.
  - (10) If a legislator considers entering into an agreement for compensation for representing any person in any transaction involving the state, he shall consider the following factors:
    - (a) Whether the matter is being brought to him in an attempt to obtain improper influence over the state agency;
    - (b) Whether there is a reasonable possibility that the action of the state agency will be unduly influenced because of his participation; or
    - (c) The effect of his participation on public confidence in the integrity of the Legislature.

**Veto Overridden April 12, 2024.**