

KENTUCKY

LOBBYING DISCLOSURE

These resources are current as of 7/29/14. We do our best to periodically update these resources and welcome any comments or questions regarding new developments in the law. Please email us at advocacy@afj.org.

What's New in This Guide

The following changes/additions have been made since the previous version of this guide:

- New legislation prohibits lobbyists from soliciting or delivering contributions discussed under "[Lobbyist Restrictions](#)"
- Updated to reflect expanded gift limitations
- New grassroots lobbying reporting

This guide summarizes key aspects of laws and regulations governing lobbying on the *state* level. It is not intended to provide legal advice or to serve as a substitute for legal advice

In some jurisdictions, city and/or county regulations may also apply to certain political activities. Check with the appropriate local jurisdiction before undertaking any activity.

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OVERVIEW

Kentucky regulates two types of lobbying: legislative and executive agency. Legislative lobbying is regulated by the [Legislative Ethics Commission](#) (“LEC”) and executive agency lobbying is regulated by the [Executive Branch Ethics Commission](#) (“Commission”).

DEFINITIONS

Lobbying

- Generally, “lobbying” is attempting to influence a lawmaker or executive agency decision maker.
- Legislative Lobbying - “to promote, advocate, or oppose the passage, modification, defeat, or executive approval or veto of any legislation [or administrative regulations] 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.” [KRS 6.611\(26\)\(a\)](#).
- Executive Agency Lobbying – “to promote, oppose, or otherwise influence the outcome of an executive agency decision by direct communication with any of the following executive branch employees:
 - Elected Executive Official: Governor, Lieutenant Governor, Secretary of State, Attorney General, Auditor of Public Accounts, Commissioner of Agriculture, State Treasurer; [KRS 11A.010\(9\)](#)
 - Secretaries of following cabinets: Justice and Public Safety Cabinet, Education and Workforce Development Cabinet, Environmental and Public Protection Cabinet, Transportation Cabinet, Cabinet for Economic Development, Cabinet for Health and Family Services, Finance and Administration Cabinet, Tourism, Arts and Heritage Cabinet, and Personnel Cabinet; [KRS 12.250](#)
 - Executive Agency Official: an officer or employee of an executive agency whose principal duties are to formulate policy or to participate directly or indirectly in the preparation, review, or award of contracts, grants, leases, or other financial arrangements with an executive agency; [KRS 11A.201\(10\)](#)

- Executive Agency: office of an elected executive official, a cabinet listed in KRS 12.250, or any other state agency, department, board, or commission controlled or directed by an elected executive official or otherwise subject to his authority. "Executive agency" does not include any court or the General Assembly; [KRS 11A.201\(6\)](#).

[KRS 11A.201\(9\)](#).

- Lobbying does not include:
 - Appearances before public meetings of the committees, subcommittees, task forces, and interim committees of the General Assembly or executive agencies;
 - News, editorial, and advertising statements published in newspapers, journals, or magazines, or broadcast over radio or television;
 - The gathering and furnishing of information and news by bona fide reporters, correspondents, or news bureaus to news media;
 - Publications primarily designed for, and distributed to, members of bona fide associations or charitable or fraternal nonprofit corporations;
 - 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; or
 - Lobbying as an uncompensated volunteer.

[KRS 6.611\(26\)\(b\)](#), [11A.201](#), [11A.231](#); Opinion of LEC ("OLEC") [93-6](#), [93-32](#), [93-33](#), [93-70](#), [94-15](#).

Grassroots Lobbying

- Businesses and organizations which employ a Legislative Agent (as defined below) must report the cost of "advertising" which appears during a session of the General Assembly, and which supports or opposes legislation, if the cost is paid by an employer or a person or organization affiliated with an employer.
- "Advertising" means statements disseminated to the public either in print, by radio or television broadcast, or by any other electronic means, including Internet or telephonic communications, and may include direct or bulk mailings of printed materials. See KRS 6.821(4)(a)5.

Lobbyist

- Legislative Agent (“LA”) - An individual who is employed or retained for compensation to lobby during at least a portion of his/her time (even a very small amount) to lobby as one of his/her official responsibilities or

who is engaged 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. [KRS 6.611\(22\)](#).

- Legislative Agent does not include:
 - Unpaid lobbyist;
 - Any person who limits lobbying activities to appearing before public meetings of legislative committees, subcommittees, or task forces, or public hearings or meetings of public agencies; ([OLEC 93-48](#))
 - A private citizen who receives no compensation for lobbying and who expresses a personal opinion; or ([OLEC 93-32](#))
 - A public servant acting in his fiduciary capacity as a representative of his agency, college, university, or city, county, urban-county, 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. ([OLEC 93-50](#), [93-69](#), [94-9](#), [94-27](#)); [KRS 6.611\(22\)\(b\)](#).
- Executive Agency Lobbyist (“EAL”) – any person who is employed or retained for compensation to influence executive agency decisions or to conduct executive agency lobbying activity as one of his/her main purposes on a substantial basis. [KRS 11A.201](#).
 - Substantial Basis means contacts which are intended to influence a decision that involves one or more disbursements of state funds in an amount of at least five thousand dollars (\$5,000) per year. [KRS 11A.201\(16\)](#).
 - *The Commission recommends you register as an EAL, if you have made direct contact at least two times during a calendar year, for the purpose of influencing an executive agency decision involving state funds of at least \$5,000 per year.
- EAL does not include:
 - Unpaid lobbyists;
 - A person who is attempting to influence a decision that does not regard the expenditure of state funds or the award of a contract, grant, lease, or other financial arrangement;
 - A person whose job does not include lobbying as a “main purpose.” Example: an engineer for a public utility who sometimes is in contact with state highway officials about

moving utility lines, but whose main duties do not include lobbying;

- A person whose state contacts do not involve “substantial” state spending. Decisions involving state spending of less than \$5,000 per year are not considered "substantial."
- A firm or individual merely submitting a bid or responding to a Request for Proposal for a contract.
- A person whose contacts with state officials are for the sole purpose of gathering information contained in a public record. Example: a businessman who seeks a fuller explanation of bidding specifications, but makes no effort to change or otherwise influence a state decision on the bids. [KRS 11A.201\(9\)](#).
- A person whose lobbying is done only during appearances before public meetings of executive agencies. [KRS 11A.201\(9\)](#).
- A person whose contacts are limited to those employees whose official duties do not include policy formulation, administrative or supervisory authority, or expenditure authorization. To be considered lobbying, contacts must be with: an elected official; a cabinet secretary; officials whose principal duties are to make policy or participate in the preparation or award of state contracts or other financial arrangements, or the staff of any of the above officials.
- Officers or employees of federal, state or local governments or of state colleges and universities when acting within their official duties. [KRS 11A.201\(8\)\(b\)](#).
- Uncompensated persons exercising their constitutional right to assemble with others for their common good and petition state executive branch agencies for redress of grievances.
- Persons acting to promote, oppose or otherwise influence the outcome of a decision of the Cabinet for Economic Development or any board or authority within or attached to the Cabinet relating to the issuance or award of a bond, grant, lease, loan, assessment, incentive inducement, or tax credit pursuant to [KRS 42.4588](#), [103.210](#), [Chapter 154](#) or [Chapter 224A](#), or otherwise relating to another component of an economic incentive package. [KRS 11A.233](#).

REGISTRATION

Registration of Legislative Agents and their Employers

- Each calendar year that a person qualifies as a Legislative Agent, the Legislative Agents *and* his or her employer must register with the LEC.

- Initial Legislative Agent/Employer Registration Statement – Within 7 days of hiring the agent, the agent *and* employer must file initial registration statement including the following information:
 - For the Legislative Agent: Name, contact information, date of hire, and occupation;
 - For the Employer: Name, brief description of nature of the organization, contact information, and real party in interest on whose behalf agent is lobbying if different from employer; **A real party in interest** is the person or organization on whose behalf the executive agency lobbyist is acting, if that person is not the employer. For example, if the ABC Corporation engages XYZ Consulting Company which, in turn, hires John Smith to influence decisions or conduct executive agency lobbying on behalf of ABC Corporation: (a) John Smith is the EAL; (b) XYZ Consulting Company is the employer; and (c) ABC Corporation is the "real party in interest." Exemption: If agent works for a 501(c) organization, the statement does not have to list names and addresses of each member;
 - Name, bill number, or brief description of legislative action agent is lobbying for.
- Registrations expire the next December 31 of the odd-numbered year and must be resubmitted if the registrant continues to qualify as a Legislative Agent.
- Fee – The employer must pay \$250 fee upon initial registration. [KRS 6.809](#).

Registration of Executive Agency Lobbyists

- EALs must register with the Commission.
- Initial Registration Statement
 - Within 10 days of engagement, an EAL must file an initial registration statement that functions to simultaneously register the lobbyist, the employer, and, if applicable, the real party in interest (if not the employer). [KRS 11A.211](#).
 - The form requires the disclosure of contact information for EAL, employer, and real party in interest (if not the employer); identification of the executive agency that the EAL plans to lobby; and a brief description of the issue to be lobbied.

- An EAL must file separate statement for each employer.
- The Initial Registration Statement must be printed, signed in ink, and mailed or delivered to the Commission.
- Registration is effective from date of filing until the next July 31 and must be renewed each year the registrant qualifies as an EAL.

| |
|------------------|
| REPORTING |
|------------------|

How to File Reports

- Legislative Agent and Employer Reports
 - Legislative Agent and Employer Reports can be filed via [mail or fax](#) or [electronically](#).
- Executive Agency Lobbyists
 - Electronic versions of all lobbying forms are available to complete online; however, all forms must be printed, signed, and submitted with the Executive Branch Ethics Commission.
-

Legislative Agent Reports

- Legislative Agent/Employer’s Updated Registration Statement - Agent *and* employer must file an updated registration statement on 15th day of January, February, March, April, May, and September. These statements must:
 - Confirm the continuing existence of each engagement described in an initial registration statement;
 - List the specific bills or resolutions on which the agent lobbied under that engagement during the period;
 - File any statement of expenditures required to be filed by KRS 6.821 (see below); and
 - File any details of financial transactions required to be filed by KRS 6.824 (see below).
- *If employed by more than one employer, the agent must file separate initial and updated statements for each. The employer who hires more than one agent, need only file one updated registration statement separating out each agent. [KRS 6.807](#).

| Reporting Period | Due |
|------------------|---------|
| Jan. 1 – 31 | Feb. 15 |
| Feb. 1 – 28 | Mar. 15 |

| | |
|-------------------|----------|
| Mar. 1 – 31 | Apr. 15 |
| Apr. 1 – 30 | May 15 |
| May 1 – Aug. 31 | Sept. 15 |
| Sept. 1 – Dec. 31 | Jan. 15 |

- If no money is spent on lobbying for that period, except compensation for the Legislative Agent, the LEC still requires the

updated form to be filed, but provides the option of filing a “Short Form” (click [here](#) for Legislative Agent Short Form and [here](#) for Employer Short Form).

- **Statement of Expenditures**
 - File separate statement for each employer containing the following:
 - If purchased food and drinks for legislator or immediate family, list name of legislator or member of immediate family, amount, brief description, and date;
 - Total amount of lobbying expenditures during that period; and
 - Cumulative amounts, except personal expenses, expended by Legislative Agent for food, drinks, lodging, transportation, entertainment, and other expenses directly associated with lobbying activities for that period.

[KRS 6.821](#); [6.807](#).

- **Statement of Financial Transactions**
 - Financial transaction is a transaction or activity conducted or undertaken for profit and arising from the joint ownership, or part ownership in common of any real or personal property or any commercial or business enterprise of whatever form or nature between a Legislative Agent, his/her employer, or a member of their immediate families and a General Assembly member, the Governor, the secretary of a cabinet, or any member of the staff of those officials. [KRS 6.611\(18\)](#); [OLEC 99-2](#).
 - If Legislative Agent has financial transaction with or for benefit of legislator, Governor, or secretary of a cabinet, or member of staff of any of these individuals, Legislative Agent must describe details of transaction:
 - Name of official or employee;
 - Purpose and nature of transaction;
 - Date.

[KRS 6.827](#).

- Statements of Financial Transactions must be filed for each employer. [KRS 6.821](#).
- File statements with the updated registration statement.
- Must deliver copy to the official listed at least 10 days before statement is filed. [KRS 6.824](#), [6.807](#).

Legislative Agent’s Employer Reports

- **Statement of Expenditures**.

- If purchased food and drinks for legislator or immediate family, list name of legislator or member of immediate family, amount, brief description, and date;
- The total amount of lobbying related expenditures made by the employer during the period;
- A complete and itemized account of all amounts expended for receptions or other events, including the date and location of the event and the name of the group of public servants invited to the event;
- A complete and itemized account of all other amounts expended for lobbying, including food and lodging expenses and reimbursements, and not including personal expenses incurred by an employer or a Legislative Agent; and
- The cumulative compensation paid to Legislative Agents, prorated to reflect the time the Legislative Agents were engaged in lobbying during the period.

[KRS 6.821](#), [6.807](#).

- Statement of Financial Transactions

- If Legislative Agent's employer has financial transaction with or for benefit of legislator, Governor, or secretary of a cabinet, or member of staff of any of these individuals, Legislative Agent must describe details of transaction:
 - Name of official or employee;
 - Purpose and nature of transaction;
 - Date.

[KRS 6.824](#); [6.807](#).

- Statements of Financial Transactions are to be filed with the updated registration statement and a copy must be delivered to the official listed at least 10 days before statement is filed. [KRS 6.827](#).
- No employer is required to show any expenditure on a statement filed if the expenditure or transaction is reported on a statement filed by a Legislative Agent engaged by the employer.

Executive Agency Lobbyist Reports

- Updated Registration Statement

- Executive Agency Lobbyists, employers, and real parties in interest are each required to file an updated registration statement annually. These forms cover the period from July 1 to June 30 and are due by July 31. The form requires the following information:
 - Confirmation of the continuing existence of each engagement described in the Initial Registration Statement;
 - A list of the specific executive agency decisions that the lobbyist sought to influence under the engagement during the period.
- EALs must file statement and list each employer.
- Employers and real parties in interest must file statement, but can list all of their lobbyists on one statement.
- Each employer and real party in interest must pay a registration fee of \$125.
- Statement of Expenditures
 - File annually with the updated registration statement containing the following:
 - Total amount of lobbying expenditures during that period;
 - Name of official or employee on whose behalf expenditure was made, total amount, brief description, and date.
 - EAL must file separate statement for each employer.

[KRS 11A.216](#), [11A.211\(2\)](#).

- Statement of Financial Transactions
 - “Financial transaction” means a transaction or activity that is conducted or undertaken for profit and arises from the joint ownership, or the ownership, or part ownership in common of any real or personal property or any commercial or business enterprise of whatever form or nature between EAL, employer, or real party in interest and any elected executive official, the secretary of a cabinet, an executive agency official, or any member of the staff. [KRS 11A.201\(5\)](#), [11A.221](#), [11A.211\(2\)](#).
 - If EAL, his/her employer, or real party in interest has financial transaction with or for benefit of an elected executive official, secretary of a cabinet, an executive agency official, or member of staff of any of these individuals, they must describe details of transaction:
 - Name of official or employee;
 - Purpose and nature of transaction;

- Date;
- No employer is required to show any expenditure on a statement filed if the expenditure or transaction is reported on a statement filed by an EAL engaged by the employer.

A copy of the required expenditure or financial transaction statement must be sent to the official or employee at least 10 days prior to the date it is filed with the Commission.

LOBBYIST RESTRICTIONS

Time Restrictions on Lobbying

- There are no time restrictions on lobbying.

Identification of Lobbyists

- No Kentucky statute or regulation requires the lobbyist to wear a badge or identification card while lobbying.
- After filing initial registration statement, a Legislative Agent is issued a card by the LEC. [KRS 6.807\(6\)](#).
- A registration card is issued to an EAL upon registration. Individuals being lobbied may request to see the registration card of any person who is attempting to influence a decision to be made concerning state funds. [KRS 11A.211\(6\)](#).

Gifts

- A Legislative Agent cannot knowingly give anything of value to legislator, candidate, or the spouse, or child of a legislator or candidate. KRS 6.811(4). 2014 legislation (HB 28) expanded the gift prohibition and now prohibits Legislative Agents and their employers from buying a meal, or even a cup of coffee, for an individual legislator, candidate, or a legislator or candidate's spouse or child. KRS § 6.811(4).
- Anything of value includes the following (cited Advisory Opinions available [here](#)):
 - Airport parking passes, 93-17
 - Box seats at entertainment facility, 93-42, 93-63
 - Discounts, rebates, 93-42, 94-19
 - Examinations, health, vision, 94-19
 - Gifts, in general, 93-49
 - Membership in recreational facility, 93-17
 - Membership on golf team 94-22
 - Prizes, 93-1
 - Trips, 94-15

- Out-of-state transportation and lodging paid for by a Legislative Agent or an employer, KRS § 6.747(2).
- Food and beverage, unless provided as part of an event permitted pursuant to KRS § 6.611(1)(2)(b)(8)
- Anything of value excludes the following:
 - Activities sponsored by government, 93-68, 96-1
 - Agency sponsored event, 94-9

- Campaign contributions, 93-55, 94-3, 95-15 (supersedes 93-55), 06-02, 98-2 (supersedes 93-55, 94-3)
 - Charitable event, 93-10, 93-17, 93-46
 - Compensation by employer, 93-37, 93-9, 94-6, 95-9
 - Contribution to charitable foundation, 94-22
 - Events to which all legislators invited, 93-12, 93-28

 - Government sponsored event, 93-36
- Informational, educational items KRS §§ 6.611(1)(2)(b)(6)-(7)
- Promotional items valued at less than \$50, KRS § 6.611(1)(2)(b)(5)
 - Legislative office space, support services, 93-68
 - Legislator's private employer, 93-37, 94-6, 94-37, 95-9
 - Lodging, 96-6
 - Media campaign, 95-18, 96-8
 - Newspaper, 95-18
 - Plaques, 93-16, 93-21
 - Prizes to club members, 93-1
 - Scholarship awards, meritorious, 93-51
 - Tax publication, 94-1
 - Unrelated benefits, compensation, 93-37, 94-6, 97-2
 - Food, beverages, or local transportation for an event held in Kentucky if it relates to the legislator's performance of his or her legislative work and is approved in advance by the Legislative Research Commission,
- EALs cannot give a gift (including travel expenses, meals, beverages, and honoraria) greater in value of \$25 to an executive branch employee, spouse, or dependent child per year.
 - Exceptions – Campaign contribution to employee's own campaign; gift from family; door prizes; sports ticket if employee pays face value). [KRS 11A.045](#); [OLEC 94-19](#).
 - All gifts, including the exceptions, received by an executive elected official or officer, which total \$200 or more annually from a single source must be disclosed on the employee's Statement of Financial Disclosure filed annually with the Commission.

Campaign Contributions

- A Legislative Agent cannot contribute to or solicit funds for a legislator, legislative candidate, or caucus campaign committee. [KRS 6.767](#); [OLEC 05-01](#). Additionally, a Legislative Agent cannot directly "solicit, control, or deliver a campaign contribution, for a candidate or legislator." Essentially, this prohibits lobbyists from bundling contributions. Lobbyists can speak in support or opposition to legislators or candidates, the Legislative Agent should not directly solicit, control, or deliver a campaign contribution to a legislator, group of legislators, or a legislative candidate. See KRS § 6.811(5).
- Legislative Agent cannot serve as treasurer for legislator or legislative

- candidate. [KRS 6.811\(5\)](#).
- During regular sessions of the General Assembly, legislators and legislative candidates will be prohibited from accepting campaign contributions from an employer of a Legislative Agent, or from a permanent committee (PAC) as defined in KRS 121.015. See KRS 6.767(2) and KRS 6.811(7).

Contingency Fees

- Lobbyists may not be paid on a contingency basis. [KRS 6.811\(9\)](#), [11A.236](#).

Revolving Door

- A legislator cannot be a Legislative Agent for 2 years from leaving office other than for a public agency. [KRS 6.757](#), [6.811\(8\)](#).
- A former executive branch employee cannot lobby for one year in matters former employee was directly involved during the last 3 years of tenure. [KRS 11A.040\(8\)](#); EBEC 09-6.

Legislative Agents and Political Organizations

- A legislative agent may not direct or serve as an officer of a 527 organization which raises or expends funds in support of or in opposition to the election or re-election of an individual to the General Assembly. Whether the organization engages in such activity depends on the circumstances surrounding its raising and expenditure of funds. [OLEC 09-01](#).

| Activity | Regulated by State? (Y/N)* | Statutory Citation |
|---|-------------------------------|---|
| Lobbying by Former Officials | YES | KRS 6.757 , 6.811(8) , 11A.040(8) . |
| Limits on Lobbyists' Gifts to Officials | YES | KRS 6.811(4) , 11A.045 ; OLEC 94-19 ; EBEC 11-05. |
| Hospitality Provided to Officials | YES | KRS 6.811(7)(a) , 11A.045 ; OLEC 94-19 . |
| Trips Organized by Lobbyists | YES | OLEC 03-01 , KRS § 6.747 |

CONTACT INFORMATION FOR STATE AND LOCAL AGENCIES

Kentucky Executive Branch

Ethics Commission
#3 Fountain Place
Frankfort, KY 40601
Phone: (502) 564-7954
Fax:
<http://ethics.ky.gov>
Report suspected violations:
800-664-7954

Kentucky Legislative Ethics Commission

22 Mill Creek Park
Frankfort, KY 40601
Phone: (502) 573-2863
Fax: (502) 573-2929
www.klec.ky.gov

** KLEC has jurisdiction over:
Legislative agents (lobbyists);
Employers (individuals or entities
who engage legislative agents); and
Members of the General Assembly.

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FOR FURTHER ASSISTANCE

For assistance regarding these resources or for more information about federal law, please contact our attorney one-on-one counseling service:

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